



# **LEGISLATIVE ASSEMBLY DEBATES**

10792

**THURSDAY, 15th SEPTEMBER, 1938**

**Vol. VI—No. 4**

## **OFFICIAL REPORT**



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## LEGISLATIVE ASSEMBLY.

*Thursday, 15th September, 1938.*

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President (The Honourable Sir Abdur Rahim) in the Chair.

### STARRED QUESTIONS AND ANSWERS.

#### (a) ORAL ANSWERS.

##### INCREASED DEFENCE CHARGES ON INDIAN REVENUES.

1053. \*Mr. S. Satyamurti : Will the Defence Secretary be pleased to state :

- (a) whether Government have considered the result of my adjournment motion in the House on the 9th August, 1938, protesting against the increased defence charges on Indian revenues, owing to the recent proposals of the British Secretary of State for War ;
- (b) whether Government have addressed the Secretary of State in pursuance of that adjournment motion ; and
- (c) whether Government propose to press on the British Secretary of State for War and the British Government that these additional charges should not be imposed on Indian revenues ; if not, why not ?

Mr. C. M. G. Ogilvie : (a) Yes.

(b) In accordance with regular practice, a copy of the debate has been sent to the Secretary of State.

(c) I refer the Honourable Member to my answer to starred questions Nos. 95, 113 and 131 asked on the 10th August, 1938, and the supplementary questions and answers arising therefrom.

Mr. S. Satyamurti : With reference to part (b) may I know whether apart from forwarding the debate, Government addressed the Secretary of State stating their own views of the matter ?

Mr. C. M. G. Ogilvie : It is not customary for Government to reveal the contents of their correspondence with the Secretary of State.

Mr. S. Satyamurti : I do not want the contents of the document, I merely want a statement of fact, whether Government merely forwarded the debate or accompanied it with any expression of their own views on the matter.



**Mr. C. M. G. Ogilvie :** Government naturally expressed their own views on the matter.

**Mr. S. Satyamurti :** May I know whether Government have agreed with the adjournment motion that these defence charges should not be imposed upon India ?

**Mr. C. M. G. Ogilvie :** I think the Honourable Member is perfectly well aware of the Government attitude in that matter.

**Mr. S. Satyamurti :** With regard to part (c), may I know whether, apart from the statement made by the Honourable the Finance Member the other day in the course of the debate on the Resolution *re* defence charges, Government are pursuing the matter with regard to the further or other charges to be imposed on Indian revenues ?

**Mr. C. M. G. Ogilvie :** Government are pursuing the matter in all its aspects.

**Mr. M. Ananthasayanam Ayyangar :** May I know whether the provisional arrangement, such as it is said to have been, regarding the grant of additional money contributions for capital outlay and recurring charges here would be reconsidered and finally the amount fixed ?

**Mr. C. M. G. Ogilvie :** I submit that that question does not arise.

#### PLACING OF INDIA ON EQUAL FOOTING WITH DOMINIONS IN RESPECT OF NATURALISATION LAW.

1054. **\*Mr. S. Satyamurti :** Will the Honourable the Home Member be pleased to state :

- (a) whether Government have taken any steps since the last voting on the Naturalisation Bill in the Legislative Assembly ;
- (b) whether Government propose to introduce any Bill with regard to it so as to place India on the same footing as the self-governing Dominions in respect of naturalisation law ; and
- (c) if so, when, if not, why not ?

**The Honourable Mr. R. M. Maxwell :** (a) In accordance with the motion adopted by this House on the 26th August, 1937, the Indian Naturalization (Amendment) Bill was circulated for the purpose of eliciting opinion thereon by the 31st December, 1937. On a consideration of the opinions received, however, the Government of India decided not to proceed with the measure pending the emergence of any really serious practical difficulties.

(b) and (c). The Government of India have not the power to pass legislation amending an Act of Parliament ; and they are not convinced of the necessity of pressing for an amendment of section 9 of the British Nationality and Status of Aliens Act, 1914, so as to include India in the First Schedule to that Act, a suggestion which was made during the course of the debate on the Indian Naturalization (Amendment) Bill. Such inclusion will not have the effect of conferring on India the power of bestowing on aliens "Indian Nationality" as distinguished from British Nationality which appears to be the main basis of the suggestion made during the debate on the Bill.

**Mr. S. Satyamurti :** With reference to parts (b) and (c) taken together, may I know the reason why Government do not propose to address His Majesty's Government to amend the British statute so as to place India on the same footing as the self-governing Dominions ?

**The Honourable Mr. R. M. Maxwell :** Because it appeared that the reason for which this course was urged on the Government was due to some misunderstanding. The effect of placing India in the first schedule of British Naturalisation Act would only be to deny the Government of India the power which it already possesses for granting naturalisation certificates.

**Mr. S. Satyamurti :** Is it a fact that, so far as the Dominions are concerned, they can confer a status much higher than the status conferred by the Naturalisation Act of the Government of India, and may I know whether Government have examined the matter and come to the conclusion that India will lose by being placed in the first schedule rather than gain ?

**The Honourable Mr. R. M. Maxwell :** I am not aware that the Dominions have such power, but if it exists, it does not proceed from their inclusion in the First Schedule of the British Naturalisation Act.

**Mr. S. Satyamurti :** May I know whether Government will pursue the matter and see that India acquires the same position as the self-governing Dominions of the British Commonwealth ?

**The Honourable Mr. R. M. Maxwell :** It already is in the same position.

**Mr. S. Satyamurti :** Have Government satisfied themselves that the status conferred by India today gives her the same status throughout the British Colonies and the Dominions ?

**The Honourable Mr. R. M. Maxwell :** Certainly.

#### POLITICAL PRISONERS IN THE CENTRALLY ADMINISTERED AREAS.

1055. **\*Mr. S. Satyamurti :** Will the Honourable the Home Member be pleased to state :

- (a) whether there are any political prisoners now in the centrally administered areas convicted by the courts in those areas, or convicted by other courts in other Provinces and transferred there ; if so, what their number is ; and
- (b) whether the Government of India have decided, as a matter of policy, in view of the advent of Provincial autonomy, not to keep under their control political prisoners convicted by the courts of other Provinces ; if not, why not ?

**The Honourable Mr. R. M. Maxwell :** (a) There are seven persons confined in the Provinces of Delhi and Ajmer-Merwara who were convicted of offences committed from what might be considered political motives. Of these, two are persons convicted in the Punjab and transferred to the Delhi Jail. The others were convicted in Delhi and Ajmer-Merwara.

(b) No question of policy arises. The only other Province concerned at the moment is the Punjab ; and as the Inspector General of Prisons, Punjab, is in administrative control of the Delhi District Jail, he is empowered to transfer prisoners between the Delhi Jail and jails in the Punjab.

**Mr. S. Satyamurti :** May I know whether it means that the Inspector General of Prisons, Punjab, has the right without reference to the Local Government of Delhi or the Central Government, to transfer the Punjab prisoners to the Delhi jail ?

**The Honourable Mr. R. M. Maxwell :** Yes, Sir, that is what I understand to be the position.

**Mr. S. Satyamurti :** May I know whether the consent of the Local Government concerned is not necessary for the transfer of prisoners convicted in one province to another provincial jail ?

**The Honourable Mr. R. M. Maxwell :** The arrangement by which the Inspector General of Prisons of the Punjab has administrative control of the Delhi district jail means that the Local Government have given their consent to it.

**Mr. S. Satyamurti :** May I know why the Local Government of Delhi which is responsible to the Central Government of India should keep prisoners convicted by the Courts in the Punjab ?

**The Honourable Mr. R. M. Maxwell :** Interprovincial arrangements of that kind are provided for under the Prisons Act and they are by no means exceptional.

#### CENTRALISATION OF THE ADMINISTRATION OF THE SALT DEPARTMENT.

1056. **\*Mr. S. Satyamurti :** Will the Honourable the Finance Member be pleased to state :

- (a) whether the scheme of centralisation of the administration of the Salt Department will be completed by the 1st April, 1939 ;
- (b) whether as a result of this change, there will be considerable saving in overhead expenses ; if so, how much ; and
- (c) whether the administration of this Department for Sind and Orissa will not be taken over just now ; if so, why ?

**Mr. A. H. Lloyd :** (a) In all the Provinces—excluding Bengal, Sind and Orissa, but including the portions of Orissa which formerly formed part of the Madras Presidency, Salt is already administered by Central Salt Department which are also responsible for Central Excises work. The question of taking over salt administration in Bengal from the Provincial Government is under consideration.

(b) Does not arise.

(c) No ; not for any reason of principle but on grounds of practical administrative convenience.

**Mr. Lachand Narayan :** May I know whether with regard to Sind the Provincial Government are in favour of this administration being with them or whether they are willing to give it up ?

**Mr. A. H. Lloyd :** They have not been asked to give it up. It is quite obvious that they are in favour of it because they have consented to do it.

**Mr. S. Satyamurti :** In view of the answer to the last part of the question, may I know whether this question is being decided by the Central Government on its own merits, or is it a case of waiting for the pleasure of the remaining Provincial Governments concerned?

**Mr. A. H. Lloyd :** The matter will be decided on its own merits.

**Mr. S. Satyamurti :** Have Government made any estimate of the possible savings in overhead expenses, if the entire administration is centralised?

**Mr. A. H. Lloyd :** That is one of the points under examination.

**Mr. Lalchand Navalrai :** With reference to part (c) may I know if the cadre of officers in the Salt Department of Sind is the same cadre or a joint cadre with the salt officers of the Central Government or is it separate?

**Mr. A. H. Lloyd :** These officers are under the administration of the Sind Government and the officers are not on any Central Government cadre.

**Mr. S. Satyamurti :** With regard to the salt departments which were previously administered by the provinces themselves, and which have since been taken up by the Central Government, has there been or has there not been a saving in overhead expenses?

**Mr. A. H. Lloyd :** We took over the salt departments in Madras and Bombay—they are the only ones concerned to any serious extent—about 12 to 14 years ago, and I must have notice of that question because it will entail a lot of research.

#### AGREEMENTS WITH THE *Ghee* AGENTS.

1057. **\*Mr. Badri Dutt Pande :** (a) With reference to the answers given to starred question No. 1247 asked on the 7th April, 1938, will the Defence Secretary be pleased to lay a statement on the table quoting the terms and conditions of the agreement under which the *ghee* agent is authorised not to give to Government credit for the following recoveries which amount to several thousands of rupees every year :

- (i) excess prices of *ghee* charged by dealers ;
- (ii) amounts deducted for inferior quality of *ghee* ;
- (iii) allowances customarily given in markets to the buyers on the value of *ghee* purchased, or in the shape of quantity of *ghee* per maund purchased ;
- (iv) for *chhach* found in *ghee* despatched and passed ;
- (v) for over-weight quantity of *ghee* found at Agra over and above the weight of Railway receipt ;
- (vi) *mandi* expenses not paid at all in *f. o. r.* bargains ;
- (vii) cost of tins never paid in *f. o. r.* bargains ;

- (viii) difference of *mandi* expense actually made by the agent and the amount paid to him by Government ;
- (ix) difference in establishment and contingencies actually spent by the agent and the amount paid to him by Government ; and
- (x) cost of *ghee* saved by the agent due to different weights prevailing in the markets ?

(b) Have the authorities enforced the terms of the agreement strictly, and particularly the terms of paragraphs 6, 12 (a) and 16 of the agreement, dated the 11th February, 1928, in which the benefit of cheaper prices, payment of lower expenses (than the flat rates and amounts fixed), and all profits arising out of the agency transactions are expressly mentioned in favour of the Government ? If not, why not ?

**Mr. C. M. G. Ogilvie :** (a) A statement is laid on the table.

(b) There has been no occasion to enforce the provision of the clauses of the agreement referred to.

#### Statement.

This question is curiously worded and is not quite clear and makes certain assumptions which are not correct.

As will be seen from the copies of the agreement placed in the Library of the House in answer to Mr. Badri Dutt's starred question No. 1247, recoveries are incidental to the working of the agency agreement and are effected and credited to Government, where due, in the normal course of submission of accounts by the agents to the Military Accounts Department. There are no special terms and conditions, apart from the agency agreement, providing for recoveries on any account. Nor has the need for such provision in the agreement been found necessary.

Clause 7 of the current agreement controls prices paid for ghi purchased by the agent whilst clause 16 governs the maintenance and submission of true and lawful accounts in respect of all transactions arising under the agreement in such manner and in such form as the Director of Contracts may prescribe. Details relating to recoveries are therefore regulated by executive instructions issued by the Director of Contracts as and when necessary.

The actual position of the items mentioned in the question is as follows :

- (i) There has been no case of excess price of ghi charged by dealers ;
- (ii) and (iii). Recoveries are credited through final invoices of the consignments concerned ;
- (iv) Credit is given in the final accounts of a season ;
- (v) Payment for excess over invoiced weight of ghi was made to the agent from 1934-35 onwards. The agent claims payment on a separate invoice supported by artias vouchers at the end of a season. The artias in turn get credit from the agent for the excess weights found on their consignments ;
- (vi) Mandi expenses are paid at a flat rate applicable to all markets and all purchases. Government cannot get credit for any gain on individual purchases, nor can the agent recoup any loss from Government, as any gain or loss is on the agent's account. F. O. R. purchases have not been made since 1929-30 ;
- (vii) The remarks against item (vi) above apply ;
- (viii) Please see remarks against item (vi) above regarding Mandi expenses. Government are not entitled to the difference, if any, between the flat rate payment made to the agent and the actual incurred by the agent ;

- (ix) The position is similar to item (viii) above. Government are not entitled to the difference referred to ;
- (x) The unit of purchase is generally the standard maund of 40 seers of 80 tolas each equivalent to 82-2/7 lbs. In some markets the maund weighs more than 82-2/7 lbs. In the case of purchases made in such markets, the quantities bought are converted to their equivalent in standard maunds and accounted for accordingly in the final invoices of the respective consignments. The excess weight resulting from the conversion is always credited to Government.

**Khan Bahadur Nawab Siddique Ali Khan :** Does this agreement extend to other commodities also ?

**Mr. C. M. G. Ogilvie :** No ; I do not think so.

**Khan Bahadur Nawab Siddique Ali Khan :** Has the quality of *ghee* improved and the prices gone down during the present arrangement ?

**Mr. C. M. G. Ogilvie :** The quality of *ghee* is unimprovable : it is the best possible obtainable.

#### ALLEGATIONS AGAINST THE *Ghee* AGENTS.

1058. **\*Mr. Badri Dutt Pande :** With reference to the reply to question No. 1248, dated the 7th April 1938, will the Defence Secretary please state whether the allegations made against the *ghee* agents in 1937-38 regarding overcharges and fraud, etc., were ever investigated ? If so, will Government be pleased to give details of the allegations investigated, name or names of investigating officer or officers, and the place where the enquiry was held ?

**Mr. C. M. G. Ogilvie :** Yes. The allegations have been further investigated, and found to be unsubstantiated. These allegations were mostly those previously received from the same source in 1930 and 1932 which were investigated by the Director of Contracts, a Court of Enquiry appointed by the Quarter Master General in India and by the Quarter Master General in India himself, and found to be baseless. The further investigations in 1937-38 were made by the Director of Contracts at Simla.

The details of the allegations are contained in Mr. Amarnath Mehra's letter dated 7th March, 1938, circulated by the Honourable Member who has asked this question on 9th March, 1938, to all Members of the Central Legislature.

**Sardar Sant Singh :** May I know if this Mr. Amarnath Mehra is the same person who was partner of the present agent and he is making these allegations for the purpose of discrediting this agent because he has been ousted out of this partnership ?

**Mr. C. M. G. Ogilvie :** So far as is ascertainable, that is a correct statement of the position.

**Mr. Badri Dutt Pande :** Is it a fact that he has challenged the department that if his allegations are wrong, he is liable to prosecution, and, if so, why has he not been invited by the Defence Department to give evidence ?

**Mr. C. M. G. Ogilvie :** Government have examined these allegations again and again and have wasted much time and money on again proving them to be false.

ALLEGATIONS AGAINST THE *Ghee* AGENTS.

1059. **\*Mr. Badri Dutt Pande :** (a) Is the Defence Secretary aware of the fact that the figure of Rs. 1-1-0 per 100 pounds on accepted *ghee* for *mandi* and financing charges taken together, as given by him in reply to questions on the 7th April, 1938, is misleading, as the correct figures are thirteen annas per maund for *mandi* expenses on the quantity of *ghee* purchased and four annas per hundred rupees for financing charges on the value of *ghee* purchased and not on the accepted *ghee* per 100 pounds ?

(b) Will the Defence Secretary place on the table a statement of their enquiries said to have been made every year with regard to the slight decrease in the flat rates with dates and year in which the decrease was made, and to what extent and in which market, and also state whether Government have made a corresponding reduction in the flat rates allowed to the agent ? If not, why not ?

(c) Is it a fact that certain Government officers made enquiries from a complainant at Delhi, and that they were perfectly satisfied in all respects ? If so, will their remarks or reports be placed on the table ? If not, has any enquiry been made departmentally, or otherwise, and, if so, with what results ?

**Mr. C. M. G. Ogilvie :** (a) The figure of Re. 1-1-0 per 100 lbs. of accepted *ghee* for *mandi* and financing charges taken together is correct. I refer the Honourable Member to the current agreement, dated the 3rd May, 1937, of which a copy is available in the Library of the House.

(b) The enquiry into the flat rates is made as a part of the review of the results of the working of the agency every year and also when fresh agreements are entered into. No detailed statements have, however, been prepared. The current agreement rates show a reduction of over ten per cent. on the rates previously paid and since 1937-38 the agent is paid at the reduced rates.

(c) The details given are insufficient to enable me to give a reply to this part of the question.

**Mr. Badri Dutt Pande :** When are these contracts due to expire ?

**Mr. C. M. G. Ogilvie :** I shall require notice of that.

**Mr. Badri Dutt Pande :** Is it the intention of the Government to call for tenders or to give the *ghee* contracts to the same monopolists ?

**Mr. C. M. G. Ogilvie :** Government will continue to retain the present extremely satisfactory and favourable arrangement until the contractors fail to work upto the extremely high standard they do at present.

**Mr. Badri Dutt Pande :** Is it a fact that the present.....

**Mr. President (The Honourable Sir Abdur Rahim) :** It is apparent now that these questions are really not of public concern. Next question.

## ARRANGEMENTS FOR THE DEFENCE OF INDIA.

1060. **\*Mr. Badri Dutt Pande** (on behalf of Mr. Amarendra Nath Chattopadhyaya) : (a) Will the Defence Secretary be pleased to state

what arrangements have been made for the defence of India in case there be any invasion of India by (i) air, (ii) by sea, and (iii) by land ?

(b) How many Indians have been recruited for the air force of India and in which capacity during 1937-38 ?

(c) How many Indians have been recruited for the British Indian Marine and Navy during 1937 and 1938 and in which capacity ?

(d) How many Indians have been recruited during 1937 and 1938 as soldiers and officers during 1937-38 for the infantry and cavalry, respectively ? Amongst the soldiers and officers recruited, how many are Punjabi Sikhs, Pathans, Garhwalis, Mahrattis, Madrasis, Biharis, Bengalis and Hindustanis of the United Provinces and Gurkhas ?

(e) If none but the Punjabi Sikhs, Pathans and Garhwalis have been recruited, is it in contemplation of the Honourable Member to recruit from all the Provinces for the defence of India and give them proper military training ?

(f) Will the Defence Secretary be pleased to state if the Provincial Governments will be asked to raise Provincial regiments trained and fully mechanised for the defence of India ? If not, what is his plan of raising an efficient army for the defence of India ?

**Mr. C. M. G. Ogilvie :** (a) The Honourable Member will appreciate that it is not in the public interest to disclose the details of such arrangements.

(b) Five cadets and 33 Indian apprentices were recruited for the Indian Air Force during 1937-38.

(c) During 1937 and 1938, five Indians have already been recruited to commissioned ranks in the Royal Indian Navy, four will be taken by competitive examination in October, 1938, and three more by special examination of "Dufferin" cadets only. During the same period, 314 Indians were recruited to different non-commissioned categories in the Royal Indian Navy.

(d) During the year ending the 31st March, 1938, 54 Indians were commissioned as Indian Commissioned Officers. They are now attached to British units for training, and it is not yet possible to say what proportion will be posted to infantry and cavalry respectively.

During the same period, 961 Indian soldiers were recruited for cavalry and 7,970 for infantry. Their details by classes are not available at Army Headquarters and to call for them from the recruiting officers all over India would not justify the expenditure of time and labour involved.

(e) No.

(f) The reply to the first portion is in the negative. The reply to the second portion is that India already possesses an efficient army and so far as finances permit, every effort is made to keep it up to date in all respects.

**Mr. S. Bhatnagar :** With reference to the answer to clauses (d) and (e) of the question taken together, may I know whether the attention of Government has been drawn to statements made by many public



men that the bulk of the army is from the Punjab and from one community? Have Government considered those facts and will Government also consider the desirability of making the army truly national by extending recruitment to all provinces and communities, so as to avoid the danger present in all countries of a military dictatorship seizing political power?

**Mr. C. M. G. Ogilvie :** I am not sure how that arises from this question, but I am prepared to say that provincial boundaries do not enter into Government's calculations at all. The best soldiers are chosen to provide the best army for India and not for any province, and in this matter national considerations must come above provincial considerations. Where the bulk of the best military material is found there we will go to get it and not elsewhere.

**Mr. S. Satyamurti :** May I know whether the bulk of the army is from the Punjab and whether Government have forgotten the experience of the brave exploits of men from my province not very long ago in the Indian Army, and may I know if Madrasis are practically kept out and many other provinces are kept out of the army altogether?

**Mr. C. M. G. Ogilvie :** Madras is not practically kept out of the army. Government gladly acknowledge the gallant services of Madrasis in the army and they are now recruited to those units where experience has proved them to be best. There are some 4,500 serving chiefly in the Sappers and Miners and artillery.

**Mr. S. Satyamurti :** Out of a total of 120,000?

**Mr. C. M. G. Ogilvie :** About that.

**Mr. S. Satyamurti :** May I take it that that is a proper proportion, considering the population of Madras, the revenue that Madras pays to the Central exchequer, and the necessity of having a national army recruited from all the provinces?

**Mr. C. M. G. Ogilvie :** The only necessity we recognise is to obtain the best possible army.

**Mr. S. Satyamurti :** May I know by what tests Government have come to the conclusion that provinces other than the Punjab cannot supply the best elements in the Indian army?

**Mr. C. M. G. Ogilvie :** By experience.

**Dr. Sir Ziauddin Ahmad :** May I ask if it is not a fact that all branches of Accounts Departments is monopolised by the Madrasis and will Government immediately reduce the number in proportion to their numerical strength in India?

**Mr. C. M. G. Ogilvie :** I do not see how that arises from this question either, but Government are again not prepared to sacrifice efficiency for any provincial cause.

**Mr. S. Satyamurti :** May I know if Government have examined this question of the allegation of Dr. Sir Ziauddin Ahmad that we are monopolising any service while, as a matter of fact, a campaign of anti-Madrasis has been started successfully, and that Madrasis do not now get what they deserve?

**Mr. President** (The Honourable Sir Abdur Rahim) : I cannot allow the matter to be pursued any further.

#### NAZI PROPAGANDA IN INDIA.

1061. **\*Mr. S. Satyamurti** : Will the Honourable the Home Member be pleased to state :

- (a) whether his attention has been drawn to two articles in the *Bombay Sentinel* of the 6th and 15th July, 1938, entitled 'Clear up Nazi cobwebs in India', 'Ambitious Nazi schemes for German House in Bombay';
- (b) whether Government have any information with regard to Nazi propaganda in India ;
- (c) whether Government have any information as to the method by which they carry on this propaganda ;
- (d) whether they distribute in this country many articles against France, Czechoslovakia, etc. ;
- (e) whether Government have any information that Dr. Urchs, who is employed in the Haverø Trading Company, Pharmaceutical Department, Bombay, is the leader of the Nazi party in India ;
- (f) whether Government have made enquiries in the matter, or will make enquiries ; and
- (g) if the allegations in the articles referred to in part (a) above are found true, whether Government will take steps to nip the Nazi menace in the bud ?

**The Honourable Mr. R. M. Maxwell** : I would refer the Honourable Member to the replies given by me on the 30th August, 1938, to Mr. Mohan Lal Saksena's starred question No. 606 and supplementaries arising therefrom. I have no further information to give to the House.

**Mr. S. Satyamurti** : For reasons which the Honourable Member has given me in private, I will not pursue the matter any further ; but in view of the world position at present have Government considered the allegation contained in clause (d) of my question, and will they take steps to nip the Nazi menace in the bud ? I am a democrat ; that is why I am asking the question.

**The Honourable Mr. R. M. Maxwell** : The Honourable Member may rest assured that Government will exercise the utmost vigilance in all matters affecting the preservation of democracy in this country.

#### NEWSPAPERS SUPPLIED TO INDIAN OFFICERS AND SOLDIERS.

1062. **\*Mr. K. Santhanam** : Will the Defence Secretary please state :

- (a) if it is a fact that no Indian owned newspaper is supplied to the Indian Army ;
- (b) if it is also a fact that Indian officers and soldiers are not allowed to buy newspapers of their own choice ; and

- (c) which newspapers are being supplied and which are being allowed to be bought by (i) Indian officers and (ii) Indian soldiers ?

**Mr. C. M. G. Ogilvie :** (a). No newspapers are supplied to the Indian Army.

(b) and (c). Indian officers and soldiers are permitted to read any newspapers provided that in the interests of army discipline they are NOT :

- (i) Subversive of Government and good order.
- (ii) Immoral in tone.
- (iii) Calculated to excite communal animosity.

**Mr. K. Santhanam :** May I know, Sir, if, for instance, the *Hindustan Times* is permitted to be bought by the Indian Officers ?

**M. C. M. G. Ogilvie :** I am not prepared to go into details of that sort.

**Mr. K. Santhanam :** Am I to understand that Government are not permitting Indian officers to buy or read any papers conducted or edited by Indians ?

**Mr. C. M. G. Ogilvie :** I cannot answer the question in any greater detail than I have already answered.

**Mr. K. Santhanam :** What is the definition of a newspaper which is not subversive of Government and good order ?

**Mr. C. M. G. Ogilvie :** I think there is no reason for me to give a definition of a thing which is so obvious.

**Mr. S. Satyamurti :** Have the Government ever allowed any Indian-owned or Indian-edited paper to be read by Indian officers of the Indian army ?

**Mr. C. M. G. Ogilvie :** I should think so, most certainly.

**Mr. S. Satyamurti :** Which of them ?

**Mr. C. M. G. Ogilvie :** I cannot say.

#### STOPPAGE OF ENLISTMENT OF GARHWALI RAJPUTS TO ROYAL GARHWAL RIFLES.

1063. **Mr. K. Santhanam :** Will the Defence Secretary be pleased to state :

- (a) if it is a fact that the enlistment of Garhwali Rajputs to Royal Garhwal Rifles has been stopped ;
- (b) the date from which it was stopped ; and
- (c) the reasons for such stoppage !

**Mr. C. M. G. Ogilvie :** (a) No.

(b) and (c). Do not arise.

## CONSIDERATION OF POLITICAL ANTECEDENTS FOR ENLISTMENT IN THE ARMY.

1064. **\*Mr. K. Santhanam** : Will the Defence Secretary be pleased to state :

- (a) if the political antecedent of a person is considered before enlistment in the army ;
- (b) if a person who has gone to jail in the civil disobedience movements will be allowed to enlist, if he is physically fit ; and
- (c) if the political antecedents of his parents are considered before a boy is admitted into the Military Academy, Dehra Dun ?

**Mr. C. M. G. Ogilvie** : (a), (b) and (c). No.

**Seth Govind Das** : Is it not a fact, Sir, that many communities of the United Provinces are not being enlisted in the army because they had taken some part in the rebellion of 1857 ?

**Mr. C. M. G. Ogilvie** : The reasons for the non-enlistment of certain classes is because subsequent experience has proved others to be superior.

**Mr. S. Satyamurti** : With reference to the answer to clause (b), did I hear my friend say " no " ?

**Mr. C. M. G. Ogilvie** : No.

**Mr. S. Satyamurti** : Then what is the answer ?

**Mr. C. M. G. Ogilvie** : No.

**Mr. S. Satyamurti** : Then, does it mean that a person who has gone to jail in the civil disobedience movement will not be allowed to enlist in the army, even though he is physically fit ?

**Mr. C. M. G. Ogilvie** : No, certainly not, he would not be allowed.

**Mr. S. Satyamurti** : Why not ?

**Mr. C. M. G. Ogilvie** : Because the army is an entirely non-political body, and it will neither retain nor enlist any person who takes an undue interest in politics of any sort.

**Mr. S. Satyamurti** : Does a man continue to keep on his sin..... ?

**Mr. President** (The Honourable Sir Abdur Rahim) : You cannot ask that question.

## LOSS OF REVENUE DUE TO EXEMPTION OF BURMA PETROL FROM IMPORT DUTY.

†1065. **\*Mr. T. S. Avinashilingam Chettiar** : Will the Honourable the Finance Member state :

- (a) the number of gallons of petrol imported into India in the last financial year and the duty raised on it ;
- (b) the number of gallons imported from Burma, and whether the imports from Burma are free of this duty ; and

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†Answer to this question laid on the table, the questioner being absent.

metn or such less punishment as is mentioned in the Acts. If the disease is not concealed, the sufferer is charged hospital stoppages and may be deprived of proficiency pay and other privileges until cured.

(c) Punishments are recorded in the soldiers' conduct sheets, which are retained in the custody of the Company Commander or Adjutant concerned and are only available for inspection by the military authorities.

**Seth Govind Das :** Is it a fact, Sir, that generally European officers are pardoned under these circumstances, while Indian soldiers are punished ?

**Mr. C. M. G. Ogilvie :** Certainly not.

#### PROCEEDS OF THE SALE OF GOLD CONSUMED AS UNPRODUCTIVE EXPENDITURE.

1970. **\*Mr. Brojendra Narayan Chaudhury :** With reference to his reply to starred question No. 697 of the 2nd September, 1938, and to supplementary questions, will the Honourable the Finance Member please state :

- (a) whether any investigation has been made recently to find out as to what extent the proceeds of the sale of gold are consumed as unproductive expenditure by those who sell gold ; and
- (b) whether he proposes to lay the reports on the investigation, if any, on the table ?

**The Honourable Sir James Grigg :** (a) and (b). I dealt with the matter as fully as is practicable in replying to supplementaries to the question referred to. As I implied then, no specific investigation has been made, nor is there any intention of making such an investigation.

**Mr. S. Satyamurti :** In view of the fact that the Honourable the Finance Member had a complete sense of equanimity as regards the export of gold, may I know if Government will make some inquiry to find out, whether, with regard to the proceeds of gold which is sent out of this country, how much of it was consumed in unproductive expenditure ?

**The Honourable Sir James Grigg :** As regards the first part, my equanimity rests on the fact that gold which is exported is being sold at a profit of something like 70 per cent. As regards the proportion which is being used for unproductive expenditure, any scientific investigation is impossible, but I have during the last three or four days had occasion to notice that there has been an enormous increase in savings deposits since the export of gold started.

**Mr. S. Satyamurti :** What is the proportion in the increase of the savings deposits to the rise in the gold exported out of this country ?

**The Honourable Sir James Grigg :** I must have notice of that question.

**Prof. N. G. Ranga :** Is it not a fact that those who deposit their money in Savings Banks are not those who are obliged to sell what is called their distress gold ?

**The Honourable Sir James Grigg :** The Honourable Member is giving me information and not asking for it.

**Mr. M. Ananthasayanam Ayyangar :** Are Government aware that the increase in savings bank deposits is due to various debt relief measures taken by the Provincial Governments?

**The Honourable Sir James Grigg :** It started long before the debt measures were thought of.

#### LIQUIDATION OF STERLING DEBT OF RAILWAYS.

1071. **\*Mr. Brojendra Narayan Chaudhury :** Will the Honourable the Finance Member please state :

- (a) whether he has any complete scheme for liquidating the entire sterling debt contracted on Railway account, i.e. for construction and maintenance of Railways, besides the policy of liquidating annually in small instalments as the year's financial position allows ;
- (b) the total amount of sterling debts for Railways ;
- (c) the average rate of interest paid in the last financial year ;
- (d) whether he has considered and investigated the possibilities of raising new loans at a lower rate of interest to repay those bearing higher interest ;
- (e) if so, whether he will let the House know the results of the investigation in detail ;
- (f) the amount of sterling debt liquidated in the last five financial years ; and
- (g) the time when the entire sterling debt is expected to be liquidated in pursuance of the present policy of repayment ?

**The Honourable Sir James Grigg :** (a), (b), (d), (e) and (g). I would refer the Honourable Member to my reply to Mr. Chattopadhyaya's questions Nos. 273 and 274 on the 15th February, 1938.

(c) Presuming that this part of the question refers to railway debt the answer is 3.3252 per cent. on borrowings up to the end of 1916-17 ; and 4.76 per cent. on later borrowings.

(f) The information is given in Account No. 82 of the relevant volumes of the Finance and Revenue Accounts.

**Mr. S. Satyamurti :** With reference to the answer to clause (d) of the question, may I know whether my Honourable friend has made any recent calculations and has come to the conclusion that there is no possibility except at or near the time of maturity, of raising new loans at a lower rate of interest ?

**The Honourable Sir James Grigg :** I cannot answer that in general. As I said in an earlier answer, the Honourable Member knows that in the loan transaction of this year, we did deal partially with a maturity

a year ahead. That possibility is considered on every occasion when there is a maturity, and not only immediately before, but say 18 months before.

**Mr. S. Satyamurti :** With reference to the answer he gave just now, may I have a specific answer, as far as he can judge of the question, as to when he expects that the entire sterling debt would be liquidated ?

**The Honourable Sir James Grigg :** No, certainly not ; I am not a prophet ?

#### REGISTRATION OF FOREIGN SUBSIDIARY COMPANIES IN INDIA.

1072. **\*Mr. Brojendra Narayan Chaudhury :** Will the Honourable the Finance Member please state :

- (a) whether he is aware that recently foreign investment companies have and are registering subsidiary companies in India for purposes of investment in India ;
- (b) whether the Government of India propose to move for the deletion of sections of the Government of India Act, 1935, regarding discrimination ; if not, why not ; and
- (c) whether he is aware that the country generally and this House have a feeling of indignation regarding these sections ?

**The Honourable Sir James Grigg :** The question should have been addressed to the Honourable the Commerce Member.

#### SINDHI SOLDIERS IN THE INDIAN ARMY.

1073. **\*Mr. Lalchand Navalrai :** (a) With reference to the answer of the Defence Secretary during this Session of the Assembly to the effect that there is only one Sindhi soldier in the Indian Army, will the Defence Secretary be pleased to state who that Sindhi soldier is ?

(b) When was he appointed ? What salary does he draw, and what position does he hold ?

(c) Were any Sindhis recruited during the last Great War ? If so, how many ? If not, why not ?

(d) Do Government know that Sind possesses Baloch tribes who have domiciled in Sind and also Sikhs ? If so, why has no opportunity been given to them to enter the army ?

(e) How many Sindhis are there in the Reserve Force of the Indian Army ?

(f) Do Government propose to give the Sindhis some preference and encouragement ? If not, why not ?

**Mr. C. M. G. Ogilvie :** (a) He is a subedar serving with No. 6 Motor Ambulance Unit, Karachi.

(b) He was enlisted on the 10th January, 1919. His salary is Rs. 140 per mensem, plus Rs. 1 per diem Mechanical Transport pay. His position is that of a subedar in the Royal Indian Army Service Corps (Mechanical Transport).

(c) Yes. During the period of the Great War, Sind was part of the Bombay Presidency. Any Sindhis who may have served in the war would be included in the number given for that Presidency. Separate figures for Sindhis cannot therefore now be given.

(d) The recruitment of Baluchis to the army was discontinued in 1925 because of the difficulty in obtaining good recruits and the high rate of desertion. Government are aware that a certain number of Sikhs reside in Sind, and there is no bar to a Sikh from Sind presenting himself for enlistment.

(e) The reserve forces of the Indian Army consist of the Indian Territorial Force and the Army in India Reserve of Officers.

Units of the Indian Territorial Force are constituted for various Provinces. At the time they were constituted, Sind was not a separate province. It is possible, therefore, that there may be Sindhis in the units constituted for the Bombay Presidency. No information is available as regards the actual numbers.

The records of the Army in India Reserve of Officers (Indian Wing) are not maintained in such a way as to enable Government to say how many Sindhis hold commissions in that wing.

(f) No, for the reasons given in answer to part (d) of the question.

**Mr. Lalchand Navalrai :** With regard to part (e) of the question, will the Honourable Member take it from me that there have been applications for entering the reserve forces? Will he give any encouragement to Sindhis and fill up the gap from that province?

**Mr. C. M. G. Ogilvie :** No distinctions are made with regard to provinces in this matter.

**Mr. Lalchand Navalrai :** Is it not a fact that those people who were taken during the Great War were discharged immediately after it?

**Mr. C. M. G. Ogilvie :** I cannot possibly say.

**Mr. Lalchand Navalrai :** If the Honourable Member has no information with regard to the Sindhis because they were part of the Bombay Presidency, now that Sind is separate, will the Honourable Member find out this information and encourage Sindhis?

**Mr. C. M. G. Ogilvie :** I think it would cost too much and the information would not be sufficiently valuable.

#### REPORT ON THE FINANCIAL CONDITIONS OF COORG.

1074. **\*Sri K. B. Jinaraja Hegde :** (a) Will the Honourable Member for Finance be pleased to state whether it is a fact that Mr. Vatial who was appointed to inquire into the financial conditions of Coorg has recommended :

- (i) abolition of three taluk officers,
- (ii) reduction of the grant to the District Board, and
- (iii) cutting down the pay of subordinate staff?



(b) If so, have any orders been passed by the Government of India ?

(c) What are the orders of the Government of India on the report ?

(d) Will Government be pleased to publish the recommendations and invite public criticism on the same ?

(e) Is it a fact that the recommendations stated in part (a) are being introduced in Coorg now ?

**The Honourable Sir James Grigg :** (a) to (e). Mr. Wattal conducted a departmental enquiry on behalf of the Government of India. His suggestions are under consideration at present. So far as any of them are within the powers of the Chief Commissioner of Coorg he is at liberty to introduce them. It is not intended to invite public criticism on Mr. Wattal's suggestions.

**Prof. N. G. Ranga :** Do Government propose to publish this report after they have finished consideration of it ?

**The Honourable Sir James Grigg :** I think the answer is implied in the last sentence of my answer.

**Mr. S. Satyamurti :** May I know the reason why Government do not propose to invite public opinion ? Is it because the report deals with departmental matters and public opinion would not be of much value to the Government on them ?

**The Honourable Sir James Grigg :** I think they are, in the main, questions which do not raise acute questions of policy.

**Mr. S. Satyamurti :** Is there any question of any further subvention being given to Coorg, in order to help it to cover its deficits ?

**The Honourable Sir James Grigg :** Simply because there may be a deficit you cannot run away with the idea that a further subvention is the proper way to deal with it.

**Mr. S. Satyamurti :** May I know why, if there is a proposal to give any subvention to Coorg, Government do not propose to invite public opinion on the matter, as they have already too many deficit provinces ?

**The Honourable Sir James Grigg :** I intended to convey the impression that if there is a proposal to give a further subvention to Coorg, it is one which would be very coldly received up here.

#### PURCHASE OF CERTAIN ARTICLES FOR THE ARMY.

14075. **\*Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. Manu Subedar) : With regard to the statement in paragraph 51 of "A Summary of Important Matters concerning the Defence Services in India, 1937-38", recently distributed, viz., "As the result of endeavours made by the Central Purchase Organisation of the Defence Services, indigenous manufacture of the undernoted stores, previously obtained from abroad, has been developed :

Ground sheets,

Cells and batteries,

Cutlery,  
Hurricane lamps,  
Horse shoes,  
Barbed wire,"

will the Defence Secretary state the nature and extent of assistance given in each case, indicating whether the assistance was given in the form of :

- (a) guaranteed orders,
- (b) subsidy,
- (c) exemption from tariffs with regard to raw materials,
- (d) subscription to capital, and
- (e) any other assistance asked for by the companies and given by Government ?

**Mr. C. M. G. Ogilvie :** (a). As regards guarantees and orders, in the case of cells and batteries a long term contract has been made which precludes purchase from other sources.

With the exceptions of cutlery and hurricane lamps, which are made by more than one firm in this country manufacture has only been established by one firm interested in the particular item concerned and, therefore, until competition appears there is an implied guarantee of purchase subject to the prescribed quality being maintained.

(b), (c) and (d). No.

(e) I refer the Honourable Member to the answer I gave to part (f) of starred question No. 809, asked by Mr. S. Satyamurti on the 7th September, 1938.

**Seth Govind Das :** When these contracts were made, were any tenders invited ?

**Mr. C. M. G. Ogilvie :** I presume, yes.

**Seth Govind Das :** Were the contracts given to the lowest tenders ?

**Mr. C. M. G. Ogilvie :** I must ask for notice of that.

**Mr. M. Ananthasayanam Ayyangar :** May I know which is the firm which has undertaken to supply cells and batteries, to which a promise of guarantee has been given ?

**Mr. C. M. G. Ogilvie :** Messrs. Eveready Co., Limited, Calcutta.

**Mr. S. Satyamurti :** With reference to the answer to part (c) of the question, that is, exemptions from tariffs with regard to raw materials, may I know whether any application was made to the Defence Department for such a concession ?

**Mr. C. M. G. Ogilvie :** As far as I know, no.

**Mr. M. Ananthasayanam Ayyangar :** What steps have Government taken to find out if these articles are manufactured locally with the aid of Indian materials and Indian labour ?

**Mr. C. M. G. Ogilvie :** I refer the Honourable Member to my answer to part (f) of question No. 809.

**Seth Govind Das :** When these contracts were given, was it considered that the contracts should generally be given to Indian concerns ?

**Mr. C. M. G. Ogilvie :** I think I have said many times before in this House that if every article which the defence services required could be obtained in India the Government of India would be rejoiced.

**Seth Govind Das :** I am asking a definite question....

**Mr. C. M. G. Ogilvie :** I have given a definite answer.

**Seth Govind Das :** I am asking a definite question, when these contracts were given, was this taken into consideration, namely, that the contracts should be given to Indian concerns ?

**Mr. C. M. G. Ogilvie :** Government have not only given these contracts to Indians, but they have, as I explained at length in answer to question No. 809 on the 7th September, taken every possible step that it is possible for the Defence Department to take, to encourage Indian firms to start manufacture of all the goods in which we are interested.

**Seth Govind Das :** What specific thing was done in this respect except the pious wish ?

**Mr. C. M. G. Ogilvie :** I refer the Honourable Member to the long list of specific items mentioned in my answer to part (f) of question No. 809. If he will read it, then he will not have to worry any further about the matter.

#### OFFICERS IN THE CONTRACTS DIRECTORATE AND PURCHASES MADE FOR THE ARMY.

1076. \***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. Manu Subedar) : (a) Will the Defence Secretary state how many officers in receipt of salary and allowance amounting to more than Rs. 500 a month in the Department of the Director of Contracts are Indians and how many non-Indians ?

(b) Are all the rules of the Indian Stores Department accepted and given effect to by the Director of Contracts, when he makes purchases for the Army ?

(c) Why has it been found necessary to have a duplicate machinery for purchases ?

(d) What is the total amount of purchases made for the Army during 1937-38, and how much of this was purchased by (i) the Stores Department, London, (ii) the Stores Department, India, and (iii) the Director of Contracts ?

(e) Can the House be supplied with a list of selected articles (the value of which purchased exceeds Rs. 5 lakhs a year) at present imported from abroad, but the manufacture of which it would be desirable for defence purposes to secure in this country ?

(f) Is there any difference in the amount of stocks carried by the Defence Department between articles at present imported and articles which are manufactured in this country ?

(g) Is it a fact that nine months' requirements have to be kept in stock with regard to articles imported, and only three months' requirements with regard to articles made in this country ? If not, what is the ratio ?

**Mr. C. M. G. Ogilvie :** (a) :

Indians	..	..	..	5
Non-Indians	..	..	..	6

(b) The Director of Contracts complies strictly with the orders of the Government of India as promulgated in the "Rules for the supply of articles required to be purchased for the public service", 1929.

(c) The question has previously been considered fully and it was decided that it was essential to retain the present system, which provides for a separate purchasing agency, possessing special knowledge of the needs of the Defence Services. The services of the Indian Stores Department are at the same time being utilised by the Defence Services to the extent possible consistent with the special needs of the latter.

(d) The figures for 1937-38 are not yet available. Those for 1936-37 are given in Appendix I of the Administration Report of the Contracts Directorate, a copy of which is in the Library.

(e) Machinery and machine tools over that value are purchased from abroad, this occurs, however, at irregular intervals. The same also applies to aircraft, all petrol driven vehicles and their components and occasional special articles of war stores, such as heavy guns and gun mountings. Electrolytic copper over that value is also purchased from abroad.

(f) Yes.

(g) The stocks at present normally carried are :

Imported stores	..	..	six months requirements.
Indian stores	..	..	three months requirements.

**Seth Govind Das :** With reference to the answer to clause (a) of the question, may I know what is the reason of more non-Indians in this department than Indians ?

**Mr. C. M. G. Ogilvie :** Because there happened to be less Indians drawing that amount in this department at the time. I can give the Honourable Member no other reason.

**Mr. S. Satyamurti :** With reference to the answer to clause (c) of the question, may I know if Government have recently examined all the relevant factors, that is to say, the advantage of purchase by themselves, that is, the Defence Department, or through the Indian Stores Department, and they have come to the conclusion that the present system by which they make the bulk of their purchases through themselves and only some through the Indian Stores Department, is the most economical in the interests of the taxpayer ?

**Mr. C. M. G. Ogilvie :** Yes.

**Mr. S. Satyamurti :** With reference to the answer to clause (e) of the question, may I know whether Government have come to any conclusion on the latter part of the question, namely, with regard to certain selected articles, the value of which exceeds Rs. 5 lakhs, and the manufacture of which it will be desirable for the purposes of defence to secure in this country ?

**Mr. C. M. G. Ogilvie :** I have already answered that question a great many times. Government would like to see every article produced in this country.

**Mr. S. Satyamurti :** Apart from that very good wish, which I share, may I know whether Government have applied their mind to the specific articles that they are now purchasing from abroad, the manufacture of which it will be prudent and wise for the Defence Department to encourage in this country ?

**Mr. C. M. G. Ogilvie :** I have answered that question several times already.

**REPORT OF THE ACTIVITIES OF THE DEPARTMENTS OF MASTER-GENERAL OF SUPPLIES AND DIRECTOR OF CONTRACTS.**

1077. **\*Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. Manu Subedar) : (a) Will the Defence Secretary state whether an annual report of the activities of the Department of Master-General of Supplies and/or the Director of Contracts is published ?

(b) If it is not published, can it be made available to Members of this House by a copy being put in the library ?

**Mr. C. M. G. Ogilvie :** (a) No annual report of the activities of the Master-General of the Ordnance is published but an Administration Report of the Director of Contracts is published from time to time.

(b) Copies of the Administration Report of the Director of Contracts are already available in the Library of the House.

**Mr. M. Ananthasayanam Ayyangar :** May I know if it is incumbent on the Director of Contracts to make a statement in the administration report as to the reasons why he has not been able to purchase particular articles in this country ?

**Mr. C. M. G. Ogilvie :** I do not know whether it is incumbent upon him to do this or not.

**Mr. M. Ananthasayanam Ayyangar :** May I know if it is generally included in the administration report ?

**Mr. C. M. G. Ogilvie :** I advise the Honourable Member to look at the administration report.

**INDIAN REGIMENT CONSISTING OF INDIANS BELONGING TO DIFFERENT CASTES.**

1078. **\*Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. Manu Subedar) : (a) Will the Defence Secretary state whether any experiment has ever been made under British rule of having an Indian regiment

consisting of Indians recruited from different Provinces and belonging to the different castes and sections, such as Sikhs, Mahrattas, Rajputs, Brahmins and Muslims ?

(b) If the reply to part (a) be in the negative, can a statement of Government's policy in this regard be made, giving reasons why it has not been considered proper to take such action ?

(c) Is His Excellency the Commander-in-Chief prepared to take up this matter with His Majesty's Government ?

(d) Are Government aware that in the University Corps and in the Boy Scout movement, and in the police forces of the country, there is no separation by caste or creed ?

**Mr. C. M. G. Ogilvie :** (a) No.

(b) Government regard it as a fundamental principle of organisation that military sub-units, such as companies and squadrons, must be homogenous.

(c) No, for the reason just mentioned.

(d) Yes.

**Mr. S. Satyamurti :** May I know the meaning which Government attach to the word "homogeneous" ? Does it mean from the same province or the same community ?

**Mr. C. M. G. Ogilvie :** It means that they must belong to the same class of persons.

**Mr. S. Satyamurti :** May I ask for some elucidation of this point ? Do they make a distinction between one class and another ?

**Mr. C. M. G. Ogilvie :** Certainly.

**Mr. S. Satyamurti :** On what basis ? Is it religious class or racial class or provincial class ?

**Mr. C. M. G. Ogilvie :** Neither. It is largely racial class.

**Mr. S. Satyamurti :** Which races are preferred and which are not preferred ?

**Mr. C. M. G. Ogilvie :** I refer the Honourable Member to the Army List.

**Mr. M. Ananthasayanam Ayyangar :** Have Government made any experiment for having a unit composed of the several classes in this country with a view to bring about more homogeneity among the various classes and castes in this country.

**Mr. C. M. G. Ogilvie :** Government have not carried out any such extraordinary experiment.

**Mr. M. Ananthasayanam Ayyangar :** Have Government noticed any defect in the Territorial Force or the U. T. Cs. which are composed of various castes and sub-castes ?

**Mr. C. M. G. Ogilvie :** Comparative homogeneity is insisted upon in territorial battalions as well as in regular battalions.

**Mr. M. Ananthasayanam Ayyangar :** What about the U. T. C. ?

**Mr. C. M. G. Ogilvie :** That is quite different.

## MUSLIM INCOME-TAX OFFICERS IN BIHAR.

1079. \*Mr. Muhammad Nauman : Will the Honourable Member for Finance state :

- (a) if it is a fact that out of 15 Income-tax Officers in Bihar there are only two Muslims, and that out of three Assistant Income-tax Commissioners, none is a Muslim ;
- (b) whether it is a fact that, according to the Bihar Civil List, there is hardly any chance of a Muslim becoming Assistant Commissioner of Income-tax for at least 20 years to come ; if so, whether Government are aware of this injustice done to Muslim cause ;
- (c) the number of Income-tax Officers and Inspectors appointed both by direct recruitment and by promotion from 1931 up to date and the numbers of Biharis, Bengalis and Muslims appointed to such posts ; and
- (d) the method and the principle employed in direct recruitment and promotion in the various grades of the Bihar Income-tax services ?

Mr. A. H. Lloyd : (a) There are 16 Income-tax Officers in Bihar and Orissa of whom three are Muslims. None of the three Assistant Commissioners is a Muslim.

(b) The present Muslim Income-tax Officers in Bihar and Orissa have still a long time to serve and it is premature to say whether or not any of them will get an opportunity to become an Assistant Commissioner.

(c) A statement is laid on the table.

(d) Recruitment to the posts of Assistant Commissioners and Income-tax Officers is generally made by promotion on the basis of merit combined with seniority. In regard to subordinate services to which recruitment is generally made by direct appointment, selection is made on the basis of minimum qualifications with due regard for communal representation.

*Statement showing the number of income-tax Officers and Inspectors appointed in Bihar and Orissa both by direct recruitment and by promotion from 1931 up to date and the number of Biharis, Bengalis, Muslims and others appointed to such posts.*

## Income-tax Officers.

By direct recruitment

Nil.

By promotion

Four, viz.,

2 Muslims (one of whom is an Oriya).

2 Bengalis (domiciled).

Besides the above, two Inspector Accountants (one domiciled Bengal and one Bihar) have recently been promoted as Income-tax Officers in temporary vacancies.

*Inspector-Accountants.*

By direct recruitment .. .. . Eight, viz.,  
 3 Muslims.  
 1 Indian Christian.  
 2 Oriyas.  
 2 Biharis.  
 By promotion .. .. . One (Bengali).

Besides the above, two (domiciled) Bengalis and two Biharis, who were formerly in the Department and were retrenched on the abolition of taxation of lower incomes, have recently been re-appointed as Inspector-Accountants in temporary vacancies.

**Mr. Muhammad Nauman :** Who sits on the Selection Board ? Is it not a fact that the person who makes the selection does it of his own will ?

**Mr. A. H. Lloyd :** I understand the Honourable Member is asking about the recruitment to subordinate services.

**Mr. Muhammad Nauman :** Yes.

**Mr. A. H. Lloyd :** The selection is made by the Commissioner of Income-tax.

**Sardar Sant Singh :** May I know what is the percentage of Muslims in this department as compared to their population in Bihar and Orissa ?

**Mr. A. H. Lloyd :** I must have notice of that question.

**Mr. Lalchand Navalrai :** May I know from the Honourable Member if any injustice has ever been done to the Muslims in this direction ?

**Mr. President (The Honourable Sir Abdur Rahim) :** That is too general a question.

**Mr. Sri Prakasa :** With reference to part (c) of the question, may I know how the analysis is made between Biharis, Bengalis and Muslims, because there may be many Biharis who are Muslims, many Bengalis who are Muslims ? There are Bihari Muslims and Bengali Muslims. How is this analysis made ?

**Mr. A. H. Lloyd :** We have understood that the distinction is between Biharis and Bengalis who are Muslims and Biharis and Bengalis who belong to other communities.

**Dr. Sir Ziauddin Ahmad :** In view of the policy of the Government in other Departments that selection is always made by a Committee will not Government consider the necessity of associating some persons with the Commissioner when he makes selections for these posts ?

**Mr. A. H. Lloyd :** The Honourable Member is making a suggestion and not asking for information.

**Dr. Sir Ziauddin Ahmad :** I am making the suggestion for your consideration.

## COMMUNAL DISCRIMINATION IN INCOME-TAX DEPARTMENT IN BEHAR.

1080. **\*Mr. Muhammad Nauman :** (a) Is the Honourable the Finance Member aware that an impression is abroad that Muslim employees are not receiving a square deal at the hands of the officers who



belong to one or other community in the Income-tax Department in Bihar and that they have to work under great disadvantage, while favouritism to the members of the other community is the order of the day ?

(b) If so, will Government be pleased to state why this communal discrimination is allowed to exist in the Income-tax Department in Bihar ? Do Government propose to hold an enquiry with a view to doing away with this communal discrimination ? If not, why not ?

(c) Do Government propose to have a cadre of Income-tax service so arranged in Bihar as to provide equal chances of appointment and promotion to all the major and minor communities of that Province and to eliminate all possibilities of favouritism ?

**Mr. A. H. Lloyd :** (a) The Government of India have no reason to believe that there is any foundation for these allegations.

(b) Does not arise.

(c) Government do not propose to alter the present arrangements.

#### MR. IRWIN'S REPORT REGARDING THE ISTAMURDARI AREA.

1081. **\*Prof. N. G. Ranga** (on behalf of Pandit Sri Krishna Dutta Paliwal) : Will the Honourable the Home Member please state :

(a) the date on which Mr. Irwin submitted his report regarding the Istamurdari area ; and

(b) whether Government intend to publish his recommendations ?

**The Honourable Mr. R. M. Maxwell :** The question should have been addressed to the Secretary to the Department of Education, Health and Lands.

#### AMALGAMATION OF AJMER-MERWARA WITH THE UNITED PROVINCES.

1082. **\*Prof. N. G. Ranga** (on behalf of Pandit Sri Krishna Dutta Paliwal) : Will the Honourable the Home Member please state :

(a) if Government are aware of the insistent demand of the public of Ajmer-Merwara, as expressed in various memorials, representations and numerous public meetings all over the Province, to merge this Province in the neighbouring Province of the United Provinces of Agra and Oudh ; and

(b) the steps Government have taken, or propose to take, to meet the demand of the public for amalgamation ?

**The Honourable Mr. R. M. Maxwell :** (a) and (b). I would refer the Honourable Member to my reply to Mr. Badri Dutt Pande's starred questions Nos. 909 and 910 on the 12th September, 1938, and to the supplementary questions asked in that connection.

**Prof. N. G. Ranga :** Have Government taken any steps since then.

**The Honourable Mr. R. M. Maxwell :** No, Sir, not since the 12th September.

**Mr. S. Satyamurti :** So far as my recollection goes, Government said that they are not going to make any change in the political status of this province for the present. May I know if, in coming to that conclusion, they have considered the representations made by the people of Ajmer-Merwara ?

**The Honourable Mr. R. M. Maxwell :** They have had one representation forwarded to them and they have replied to that.

**Mr. S. Satyamurti :** Will they consult the people in Ajmer-Merwara in some way or other to find out whether they are content with their present political status as a Chief Commissioner's province, or whether they would like to be merged with the United Provinces of Agra and Oudh ?

**The Honourable Mr. R. M. Maxwell :** Government do not propose to start a plebiscite in Ajmer-Merwara at present.

**Mr. S. Satyamurti :** Though they will allow it in the Sudetan territory !

HOLDING OF HIS COURT BY THE COMMISSIONER, AJMER-MERWARA, AT HIS RESIDENCE.

1093. **\*Prof. N. G. Ranga** (on behalf of Pandit Sri Krishna Dutta Paliwal) : Will the Honourable the Home Member please state :

- (a) whether it is a fact that the Commissioner, Ajmer-Merwara, does not hold his court in the court room, but at his residence, if so, under which rules ;
- (b) whether Government are aware of the difficulty experienced by litigants in presenting applications, etc., at the residence ; and
- (c) whether Government intend to consider the advisability of ordering the Commissioner to hold his Court in the court premises ?

**The Honourable Mr. R. M. Maxwell :** (a), (b) and (c). I would refer the Honourable member to the reply given on the 30th March, 1938, to part (b) of Mr. Mohan Lal Saksena's starred question No. 1096.

**Prof. N. G. Ranga :** May I know what action has been taken since last March in order to see that this particular grievance is redressed ?

**The Honourable Mr. R. M. Maxwell :** As I explained in answer to a question last March, there is no legitimate grievance of the people of Ajmer-Merwara in this respect. There is a separate district and sessions judge to whom most of the civil litigation goes.

**Mr. M. Ananthasayanam Ayyangar :** May we take it that the Commissioner does not attend the court house for receiving applications and does not dispose of them in the court house itself ?

**The Honourable Mr. R. M. Maxwell :** I understand that during court hours he would receive any applications in court.

**Mr. M. Ananthasayanam Ayyangar :** Does he attend court at all on any day or regularly each day ?

**The Honourable Mr. R. M. Maxwell :** He does not do ordinary judicial work ; that is done by the district and sessions judge ; he only receives miscellaneous applications.

**Seth Govind Das :** Does the Commissioner go to court any time, or does he not go there at all ?

**The Honourable Mr. R. M. Maxwell :** I do not know exactly how he spends his time, but if he has a case to try which requires the presence of parties and pleaders, then he hears them in court ; but I understand he practically does not do judicial work ; that is done by the additional district and sessions judge.

#### RECRUITMENT TO GOVERNMENT SERVICES.

1084. **\*Babu Baijnath Bajoria :** (a) Will the Honourable the Home Member state whether it is not a fact that for purposes of employment in most of the Government services, excepting menials, the minimum educational requirement of a candidate is his passing the Matriculation or an equivalent examination ?

(b) Are Government prepared to appoint in services under their control, the number of Hindus, Muslims, Christians, Sikhs, and members of the other communities, in proportion to the number of persons, belonging to these communities, respectively, passing (i) the Matriculation or an equivalent examination, (ii) I.A. or I.Sc., (iii) B.A., B.Com., or B.Sc., (iv) B.L. or any other degree in law, (v) M.B. or any other degree in medicine, (vi) B.E. or any other degree in Engineering, during the year previous to the date of such appointment ? If not, why not.

(c) Is it not a fact that the Hindus do not get their due share in such appointments which their percentage of successes in various examinations make them entitled to get ?

**The Honourable Mr. R. M. Maxwell :** (a) I have no precise knowledge : but I believe that for recruitment to most of the posts, other than inferior posts, under the control of the Government of India the minimum qualification would be matriculation or the equivalent, or a higher qualification.

(b) No : such a measure is not necessary in pursuance of the Government's declared policy of redressing communal inequalities in the Services : and it would give rise to a number of practical difficulties.

(c) I have no information.

**Babu Baijnath Bajoria :** Is it not a fact that, if appointments are made strictly according to the percentage of passes at the different examinations, the Hindus will be entitled to a much higher percentage of appointments in the various Departments under Government than they do at present ?

**The Honourable Mr. R. M. Maxwell :** That question assumes that all those who pass these examinations are candidates for Government service.

CENSORSHIP OF THE LETTERS ADDRESSED TO SWAMI SAHAJANAND SARASWATI,  
PRESIDENT OF THE ALL-INDIA KISAN SABHA.

1085. \*Prof. N. G. Ranga : Will the Honourable the Home Member be pleased to state :

- (a) whether letters addressed to Swami Sahajanand Saraswati, the President of the All-India Kisan Sabha, are intercepted, opened and thus delayed by the police authorities ;
- (b) if it is not a fact that letters addressed to him from Bombay are delivered on the fifth or sixth day, although ordinarily not more than three days should be taken ; and
- (c) under whose orders are these delays caused, and his correspondence opened ?

The Honourable Mr. R. M. Maxwell : (a) to (c). It is not in the public interest to answer any question on this subject.

ENLISTMENT OF SINDHIS IN THE ARMY.

1086. \*Mian Ghulam Kadir Muhammad Shahban : (a) Will the Defence Secretary be pleased to state the policy of the Government of India in recruiting people to the Army from each Province in India, whether it is based on population, or proportion of its martial races, or its strategic importance, or any other causes ?

(b) Is the Honourable Member aware of the strategic importance which Sind Province possesses and of the martial calibre of various people of Sind, specially the Muhammadan element ?

(c) Have Government ever tried by enquiry to find out if people of Sind are available and willing to enter the Army service ?

(d) If not, do Government propose to do so with a view to enlisting the Sindhis to the Army ?

(e) In view of the fact that there is only one soldier from Sind in the Indian Army, do Government propose to recruit or enlist more Sindhis to the Army ? If not, why not ?

(f) Is there any Sindhi officer in the Army, or in the Reserve Force in India ?

(g) How many Sindhi students are there in the Military Academy and Prince of Wales College at Dehra Dun, respectively ?

(h) Do Government propose to increase the number of the Sindhi officers and soldiers in the regular force ? If not, why not ?

(i) Is it a fact that the Punjab and the North-West Frontier Province are given special preference in the matter of the recruitment ? If so, for what reasons ?

(j) Why is not that preference being extended to Sind ?

Mr. C. M. G. Ogilvie : (a). Recruitment to the non-commissioned ranks of the Indian Army is on a class and not on a provincial or territorial basis. Certain classes have been found by experience to provide the best soldiers and they are therefore recruited in the army.

(b) Government are aware of the strategic importance of Sind and also of the martial qualities of its inhabitants.

(c) Yes.

(d) Does not arise.

(e) No, as the experiments tried have not given favourable results.

(f) Yes, in the Indian Army Reserve of Officers.

(g) One and four respectively.

(h) No. As regards officers, no preference is given to any province; as regards other ranks, the question has already been answered.

(i) No. The bulk of the best military material is, however, found in these Provinces.

(j) Does not arise.

**Mr. Lalchand Navalrai :** May I know if there is any officer in Sind engaged in recruiting from Sind?

**Mr. C. M. G. Ogilvie :** Not that I am aware of.

**Mr. Lalchand Navalrai :** Will the Honourable Member then find out where they have to apply for recruitment,—whether to the Bombay Presidency or Sind or to the Defence Secretary here?

**Mr. C. M. G. Ogilvie :** Those belonging to the classes which are eligible can apply to the nearest recruiting office.

#### SHORT NOTICE QUESTION AND ANSWER.

##### SHIVA TEMPLE DISPUTE AT DELHI.

**Babu Baijnath Bajoria :** (a) Will the Honourable the Home Member be pleased to state if it is a fact that an amicable settlement was arrived at between the Hindus and the Moslems of Delhi in regard to the Shiva Temple dispute, with the concurrence of the local authorities, as an *interim* arrangement for the continuance of the worship at the temple pending the decision of the enquiry by R. B. Joseph Thakur Das, Magistrate, appointed by the Government?

(b) Is it not a fact that the leaders of both the communities co-operated with the Government in the proper maintenance and observance of the terms of the settlement and that in consequence things were returning to normal?

(c) Is it not a fact that the settlement was confirmed at a mass meeting of the Hindus held in the Queen's Garden and also by the Temple Raksha Committee?

(d) Is it not a fact that Shyampurī Sadhu at the temple was stabbed in broad day light on Friday morning, in the presence of the police guard and the alleged assailant was not arrested by the police on duty there but by a passer-by?

(e) Is it not a fact that soon after the above incident, the Hindu leaders came on the spot and persuaded the excited crowd to disperse, which had assembled out of sympathy with the Sadhu?

(f) Is it not a fact that the Deputy Commissioner, Delhi, remarked at the time that the settlement is now a matter of past history ?

(g) Is it not a fact that after the removal of the Sadhu to the hospital, all his articles of worship including the idols were seized and removed by the Government from the site and not even one person was allowed to carry on the usual *puja* in the absence of the Sadhu ?

(h) Are Government aware of the intense indignation and discontent amongst the Hindus caused by the removal of the idols and articles of worship and the stoppage of usual *puja* and of the observance of general *hartal* in the city by the Hindus ?

(i) Are Government prepared to restore the seized articles of worship and the idols and permit the performance of the usual *puja* at the said temple as per terms of settlement, unmolested and unhampered ?

(j) Did Government receive a memorial from the Hindus of Delhi detailing their grievances, and requesting Government to observe the terms of settlement and, if so, will Government be pleased to place the same on the table of the House and state what action they have taken, or propose to take, thereon ?

(k) Has the announced enquiry been postponed and, if so, why, and when will the said enquiry commence ?

The Honourable Mr. R. M. Maxwell : (a) An agreement was reached on the evening of September 3rd. One clause of the agreement provided that the Sadhu might remain on the site till the rights of the parties were decided by the Civil Courts, and might perform his usual *arti* and *puja* in a private manner without using *sankh* or *garhial*. Another clause provided for an enquiry as to the form of worship which actually took place before the agitation began.

(b) Though in some details the agreement was for a few days not satisfactorily observed, leaders of the communities gave their assistance, and by the 8th calm was being restored.

(c) I have no knowledge apart from what has appeared in the newspapers.

(d) The incident is under adjudication and it would not be proper for me to enter into details of the assault and the arrest.

(e) I understand that Hindu leaders assisted in persuading the crowd which had squatted on the disputed site to move.

(f) I have no information.

(g) The moveables left at the site by the Sadhu have been placed in safe custody. The District Magistrate's order promulgated under section 144, Criminal Procedure Code, prohibited (among other things) the presence of any person on the disputed site.

(h) I cannot undertake to estimate the feelings of persons interested in these events. There was a partial *hartal* on the 9th. I understand that the city is now quiet.

(i) and (k). I am not at present in a position to say what action will be taken.

(j) No such memorial has reached the Government of India.

**Babu Baijnath Bajoria :** Is it not a fact that the inquiry was to have commenced on the 9th September, but it has not yet commenced, and in the papers it has appeared that it has been postponed ?

**The Honourable Mr. R. M. Maxwell :** That inquiry was to be held as part of the agreement at which the parties arrived on September, the 3rd, but now that agreement has been denounced on account of the subsequent events, and therefore it is a question for fresh decision whether any inquiry can be held in the future.

**Babu Baijnath Bajoria :** Has the inquiry been abandoned ?

**The Honourable Mr. R. M. Maxwell :** For the present, yes.

**Babu Baijnath Bajoria :** Is the Honourable Member aware that a notice has been issued on the Sadhu not to quit the hospital for a period of two weeks without express permission ? Is that correct ?

**The Honourable Mr. R. M. Maxwell :** No, Sir, I have no confirmation of that statement.

**Babu Baijnath Bajoria :** Has the Honourable Member not seen this in the newspapers ? Is it the intention of Government not to allow the Sadhu to go to the place of the temple in the Queen's Gardens after his recovery from the hospital ?

**The Honourable Mr. R. M. Maxwell :** So long as the present order under section 144 subsists, no person, either the Sadhu or any other person, will be allowed to be on the site.

**Babu Baijnath Bajoria :** Is it not taking adverse possession of the site in question by the Government by this method ?

**The Honourable Mr. R. M. Maxwell :** Section 144 was applied to the place in order to prevent further disturbances.

**Babu Baijnath Bajoria :** Are the Government also aware that Rai Bahadur Harish Chandra, who was one of the arbitrators of the dispute, has resigned from the Municipal Committee as a mark of protest against the Government attitude in this matter ?

**The Honourable Mr. R. M. Maxwell :** I saw that in the paper. I have not heard it from the Chief Commissioner.

**Sardar Sant Singh :** With regard to part (d) of the question, what reply have the Government made to the question of fact, apart from the question of the case being in court ? May I ask whether the police on duty arrested the assailant or did not arrest him ?

**The Honourable Mr. R. M. Maxwell :** Yes, Sir, the police on duty did arrest the assailant.

**Sardar Sant Singh :** Is it a fact that he was allowed to go by the police and only the passers-by arrested him ?

**The Honourable Mr. R. M. Maxwell :** No, Sir, the first person to intervene was one of those who were doing puja.

**Sardar Sant Singh :** As regards part (d) of the question, may I ask whether it is a fact or not that the Hindu leaders of Delhi actually dissuaded the people from any sort of excitement or agitation as regards this assault ?

**The Honourable Mr. R. M. Maxwell :** I have answered that.

**Dr. Sir Ziauddin Ahmad :** With reference to part (a) of the question, the Honourable gentleman said that the agreement was that the worship should be done in a private manner. Was this condition observed by the *pujari* ? Was not the worship done in a public manner ?

**The Honourable Mr. R. M. Maxwell :** The letter of the agreement was observed, but on one or two occasions the *pujari* did sound the *sankh*.

**Dr. Sir Ziauddin Ahmad :** With reference to the agreement that has been mentioned, is it not a fact, as was pointed out by the Honourable Member himself the other day, that there was some difference of opinion about the manner and the interpretation of the expression ' *status quo* ' and the Hindus and the Muhammadans did not agree about its interpretation ?

**The Honourable Mr. R. M. Maxwell :** The agreement solved that difficulty so long as it subsisted.

**Sardar Sant Singh :** With regard to part (f) of the question, may I know if the Government made inquiries from the Deputy Commissioner, Delhi, whether he made the remark referred to in this question ?

**The Honourable Mr. R. M. Maxwell :** I am not sure, but I have no such information from the Chief Commissioner as to what remark the Deputy Commissioner may or may not have made.

**Sardar Sant Singh :** Did the Government of India make any inquiry from the Chief Commissioner whether such a remark was by the Deputy Commissioner ?

**The Honourable Mr. R. M. Maxwell :** I am not sure whether a specific inquiry was made or not. The House must remember that this was a short notice question and the information had largely to be obtained by telephone.

**Mr. M. S. Aney :** May I ask whether the settlement that was arrived at is going to be upheld by the Government and whether the terms of it are going to be observed by the Government hereafter ?

**The Honourable Mr. R. M. Maxwell :** Which settlement ?

**Mr. M. S. Aney :** The settlement that was arrived at on the 3rd September to which reference was made in part (a) and also in part (f). Are Government going to observe the terms of the settlement hereafter ?

**The Honourable Mr. R. M. Maxwell :** It is not a question of Government observing it : it is a question of the parties observing it.

**Mr. M. S. Aney :** Are the Government going to help the parties in observing the settlement as they promised to do on the 3rd September ?

**The Honourable Mr. R. M. Maxwell :** The settlement has actually broken down owing to the unfortunate incident that took place.

**Mr. Lalchand Navarai :** May I know whether the agreement that has already been made will be the subject of consideration by the independent inquiry that will be held ?

**The Honourable Mr. R. M. Maxwell :** It will not be the subject of a judicial inquiry, if that is what the Honourable Member means.



**Mr. President** (The Honourable Sir Abdur Rahim) : Order, order ; there has been sufficient discussion.

### UNSTARRED QUESTION AND ANSWER.

#### DESPATCHERS UNDER THE DIRECTOR OF CONTRACTS.

**60. Dr. P. N. Banerjee** : Will the Defence Secretary please state :

- (a) the number, communitywise, of Despatchers employed under the Director of Contracts ;
- (b) the age and length of service of each Despatcher ;
- (c) the number of the Despatchers, whose increments have been withheld for a period of over two years ;
- (d) the reasons for retaining those Despatchers in service, whose increments for over two years are withheld for unsatisfactory work ; and
- (e) whether he is aware that the inefficiency of those Despatchers is due to defective eye-sight ?

**Mr. C. M. G. Ogilvie** : (a) One Hindu and one Indian Christian.

(b) The Hindu despatcher is 38½ years old and has 16½ years' service. The Christian despatcher is 42½ years old and has 16 years' service.

(c) There is no despatcher of the category mentioned.

(d) and (e). Do not arise.

#### THE MOTOR VEHICLES BILL—*contd.*

**Mr. President** (The Honourable Sir Abdur Rahim) : The House will now resume consideration of the Motor Vehicles Bill.

The question is :

“ That clause 96, as amended, stand part of the Bill.”

The motion was adopted.

Clause 96, as amended, was added to the Bill.

Clauses 97, 98, 99, 100, 101, 102 and 103 were added to the Bill.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 104 stand part of the Bill.”

**Maulvi Abdur Rasheed Chaudhury** (Assam : Muhammadan) : Sir, I beg to move :

“ That in sub-clause (2) of clause 104 of the Bill, for the word ‘ fifteen ’ the word ‘ five ’ be substituted.”

A look into the clause will show that when the period covered by the insurance is terminated, the insured person has to deliver to the insurer the certificate of insurance within seven days. We have got the experience that even for the renewal of life insurances, the Insurance Company gives a period of grace for 30 days for the renewal of the policy. Here,

Sir, there is no provision that the insurer will give a reminder to the insured person for the delivery of the insurance certificate. It is quite probable that the period of seven days may pass by way of forgetfulness and the insured person may not even remember to deliver the insurance certificate within the period of seven days. As no provision has been laid down for giving reminder to the insured person, in the circumstances I think the penalty provided is too high. My amendment intends to reduce the amount of penalty from 15 to 5. Sir, I move.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in sub-clause (2) of clause 104 of the Bill, for the word ‘ fifteen ’ the word ‘ five ’ be substituted.”

**Mr. K. G. Mitchell** (Government of India : Nominated Official) : Sir, I oppose the amendment. I think the Honourable Member has failed to understand the precise meaning of the clause which does not refer to the expiry of the policy of insurance in the ordinary way by the effluxion of time. The clause says that when a policy is terminated for some reason during its normal currency, then the insured person shall, within seven days after such termination or suspension, deliver the insurance certificate to the insurer, and the necessity for the penalty is this. If the certificate of insurance shows that the policy has still several months more to run, as far as any check on the road is concerned, that vehicle is covered. Therefore, it is necessary that if the insurance company is for any reason forced to cancel the policy within the contract period, then the insurer should return the certificate. Otherwise, he will be travelling on the road under false pretences. Sir, I oppose.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in sub-clause (2) of clause 104 of the Bill, for the word ‘ fifteen ’ the word ‘ five ’ be substituted.”

The motion was negatived.

**Mr. J. D. Anderson** (Secretary : Legislative Department) : Sir, I beg to move :

“ That to sub-clause (2) of clause 104 of the Bill, the words ‘ subject to a maximum of five hundred rupees ’ be added at the end.”

I think, Sir, the purpose of this amendment is obvious. There is a minimum already fixed for the fines which may be levied and experience has shown that it is desirable also to have a maximum. Sir, I move.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That to sub-clause (2) of clause 104 of the Bill, the words ‘ subject to a maximum of five hundred rupees ’ be added at the end.”

The motion was adopted.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 104, as amended, stand part of the Bill.”

The motion was adopted.

Clause 104, as amended, was added to the Bill.

Clause 105 was added to the Bill.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 106 stand part of the Bill ”

**Pandit Lakshmi Kanta Maitra** (Presidency Division : Non-Muhamadan Rural) : Sir, I beg to move :

“ That in the proviso to sub-clause (1) of clause 106 of the Bill, for the word ‘ seven ’ the word ‘ ten ’ be substituted.”

Sir, the purpose of this amendment is very simple and it is that I just want a little more time.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in the proviso to sub-clause (1) of clause 106 of the Bill, for the word ‘ seven ’ the word ‘ ten ’ be substituted.”

**The Honourable Mr. A. G. Clow** (Member for Railways and Communications) : Sir, I think a period of seven days is long enough. We extended the time a little in the Select Committee. The police station in question can be specified by the driver and he ought to produce the certificate within the time allowed. I oppose the amendment.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in the proviso to sub-clause (1) of clause 106 of the Bill, for the word ‘ seven ’ the word ‘ ten ’ be substituted.”

The motion was negatived.

**Pandit Lakshmi Kanta Maitra** : Sir, I beg to move :

“ That in the proviso to sub-clause (2) of clause 106 of the Bill, for the word ‘ five ’ the word ‘ ten ’ be substituted.”

Sir, in this case also I want a little more time. It is open to the Honourable Member to accept the amendment or not.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in the proviso to sub-clause (2) of clause 106 of the Bill, for the word ‘ five ’ the word ‘ ten ’ be substituted.”

**The Honourable Mr. A. G. Clow** : I am prepared to agree to a little more time. But I see no reason for going further in this case than we were in the preceding case. If the subsequent amendment, standing in the name of Maulvi Abdur Rasheed Chaudhury were moved, I would be prepared to accept it. But I am unable to accept the present amendment.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in the proviso to sub-clause (2) of clause 106 of the Bill, for the word ‘ five ’ the word ‘ ten ’ be substituted.”

The motion was negatived.

**Maulvi Abdur Rasheed Chaudhury** : Sir, I beg to move :

“ That in the proviso to sub-clause (3) of clause 106 of the Bill, for the word ‘ five ’ the word ‘ seven ’ be substituted.”

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in the proviso to sub-clause (2) of clause 106 of the Bill, for the word ‘ five ’ the word ‘ seven ’ be substituted.”

The motion was adopted.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 106, as amended, stand part of the Bill.”

The motion was adopted.

Clause 106, as amended, was added to the Bill.

Clause 107 was added to the Bill.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 108 stand part of the Bill.”

**Maulvi Abdur Rasheed Chaudhury** : Sir, I beg to move :

“ That in part (a) of sub-clause (1) of clause 108 of the Bill, for the word ‘ twenty-five ’ the word ‘ ten ’ be substituted.”

Sir, the reason behind this amendment is that India is a very poor country and it will be very difficult for co-operative societies to procure Rs. 25 thousand for deposit. So, I say, Sir, that the limit of the amount should be placed at Rs. 10 thousand and not Rs. 25 thousand. Sir, I move.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in part (a) of sub-clause (1) of clause 108 of the Bill, for the word ‘ twenty-five ’ the word ‘ ten ’ be substituted.”

**Mr. R. M. Chatterjee** (Government of India : Nominated Official) : Sir, I oppose the amendment. As it is, I feel that this figure of Rs. 25 thousand is very small. One accident may exhaust the whole Fund.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in part (a) of sub-clause (1) of clause 108 of the Bill, for the word ‘ twenty-five ’ the word ‘ ten ’ be substituted.”

The motion was negatived.

**Dr. P. N. Banerjee** (Calcutta Suburbs : Non-Muhammadan Urban) : Sir, I beg to move :

“ That in part (a) of sub-clause (1) of clause 108 of the Bill, for the word ‘ twenty-five ’ the word ‘ fifteen ’ be substituted.”

Sir, I think it is very desirable to encourage co-operative movement, and co-operative societies amongst the owners of public vehicles would be very welcome. But the amount which is fixed here, as deposit, namely, Rs. 25,000, appears to me to be very large, and this amount has to be

[Dr. P. N. Banerjea.]

kept separate and will not be available for meeting claims or other expenses. Sir, I think it will greatly benefit the principle of co-operation if Rs. 15,000 is demanded and not Rs. 25,000.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in part (a) of sub-clause (1) of clause 108 of the Bill, for the word ‘ twenty-five ’ the word ‘ fifteen ’ be substituted.”

**Mr. R. M. Chatterjee** : Sir, I again oppose this amendment. For the reasons already given, I think Government cannot accept this amendment.

**Dr. Sir Ziauddin Ahmad** (United Provinces Southern Divisions : Muhammadan Rural) : Sir, may I say a few words ? The reason why I put my name also to this particular proposition is this,—I think it is but fair that the Government Members should hear us first and express their opinion afterwards and not express their opinion first and don’t listen to any argument on the other side. I contemplate that in future mutual co-operative insurance companies will come into existence. We have discussed quite enough on the floor of the House managing agencies and other things and we know how the ordinary insurance companies will dupe these poor people and the amount will very seldom be paid and we therefore contemplate that in future various motor companies will form themselves into mutual insurance companies : it will take some time ; and this Legislature and the Government ought to ensure the formation of such companies. I think in the beginning it is not right to put a very high premium because after all these will be small companies : every one of them will share the troubles of the others. If there are about 200 buses in a locality, then the owners of these buses will combine and form a mutual insurance company and pay the liabilities which may be incurred by any one of these. They do not derive any benefit from the deposit money and it should not be beyond the ability of these small co-operative insurance companies. It ought to be our policy to encourage the formation of such companies and this can only be done if we lower the limit of the deposit in this particular case. Later on if we find that the amount is not sufficient, we can bring a small Bill and raise the amount. But I think it is not desirable to burden these small people with a very heavy amount : with such a requirement, the formation of such companies will become impossible. My friend, Mr. Ranga, always says he supports the cause of these small people, though in fact he does not. We can test it now by seeing whether he supports this amendment or not.

**Mr. K. G. Mitchell** : Sir, with reference to what has just fallen from my Honourable friend, Sir Ziauddin Ahmad, I would like to point out that there are two sides to this question : it is not only a question of the amount that can be provided by these co-operative societies, but we have also to see that a reasonable amount of cover is provided. The House has accepted in respect of buses insurance for a limit of Rs. 20,000 for external third party, and in respect of internal third party another Rs. 20,000 ; that is to say, for one bus the insurer may become liable in extraordinary cases to pay claims amounting to Rs. 40,000. This is a very modest proposal that these Co-operative Societies should provide a

reserve of Rs. 25,000 for 50 buses : if we are going to reduce it to Rs. 15,000 I think it becomes rather ludicrous. There is no question of this money lying idle. There is nothing in the Bill to prevent Co-operative Societies investing it in sound interest-bearing securities ; and as Mr. Chatterjee has said, the limit of Rs. 25,000 is on the low side. I oppose the amendment.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in part (a) of sub-clause (1) of clause 108 of the Bill, for the word ‘ twenty-five ’ the word ‘ fifteen ’ be substituted.”

The motion was negatived.

**Mr. N. V. Gadgil** (Bombay Central Division : Non-Muhammadan Rural) : Sir, I move :

“ That in part (a) of sub-clause (1) of clause 108 of the Bill, for the words ‘ every fifty vehicles or fractional part thereof ’ the words ‘ first fifty vehicles or fractional part thereof and *pro rata* for every additional vehicle ’ be substituted.”

In this clause 108, provision is made for cooperative insurance. In the course of the discussion at the time the Bill was under consideration, it was pointed out that third party insurance if made compulsory would increase either taxation or costs. I think that the provision in this clause if liberally interpreted will go a long way in reducing that cost. I have in my possession a report of the proceedings of the Ratnagiri District Motor Bus Association, Ltd. From that report it is clear that if co-operative insurance is undertaken, the cost will considerably decrease. This association has been well spoken of in the Report of the Motor Vehicles Insurance Committee, and the latest figures, I am supplied by the President, are these. In the course of  $7\frac{1}{2}$  years, there were 18 accidents in which 21 persons were involved and all told this association has to pay not more than Rs. 2,527 with an annual average of 195 cars on its register. If what I have suggested in this amendment is accepted, then the provision in clause 108 (1) (a) will be considerably liberalised. The first twenty-five thousand rupees will be secured whether the vehicles are one or fifty. But suppose the vehicles registered by the association are 51 ; then the clause, as it stands, makes it compulsory that fifty thousand rupees should be deposited. My amendment only suggests that the minimum 25,000 will be there whether the vehicles be one or fifty. But if there is an additional car over and above this minimum number of 50, then for every additional car the amount of deposit will increase *pro rata*, i.e., Rs. 500 per additional vehicle that may be registered. In my humble opinion this will go to help the formation of co-operative insurance societies. The working of this Ratnagiri association will go to show that in this particular association the members have to pay Rs. 450 for one-ton bus or Rs. 290 for a half-ton bus. By this provision it will be incumbent on every owner, who has one vehicle, to deposit Rs. 500 ; then for every premium that may be calculated according to the provisions contained in the subsequent sub-clauses he will have to pay anything from Rs. 100 to Rs. 200 ; but the next year the very amount will be carried over and he will not be required to pay the annual premium as will be required in a joint stock company : that is a great advantage. The only sum he may be required to pay will be approximately from Rs. 30 to Rs. 40 to cover management and other overhead charges. That would be a great

[Mr. N. V. Gadgil.]

benefit and it will go a very long way in reducing the cost when compulsory insurance is statutorily provided for. I therefore submit that the aim of those who are interested in seeing that the compulsory insurance works well on the one hand and that it is not a burden on the industry on the other should be to see that the provisions, especially in clause 108, should be liberalised as much as possible. I, therefore, submit for the consideration of this House that my amendment seeks to liberalise sub-clause (a), and I have no doubt that the Government will see the reasonableness of this. Sir, I move.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in part (a) of sub-clause (1) of clause 108 of the Bill, for the words ‘ every fifty vehicles or fractional part thereof ’ the words ‘ first fifty vehicles or fractional part thereof and *pro rata* for every additional vehicle ’ be substituted.”

**The Honourable Sir Manmatha Nath Mukerji** (Law Member) : Sir, I oppose this amendment, and on this ground. While we appreciate the object with which this amendment has been put forward, we feel that there would be practical difficulties if this amendment were accepted, and I propose to give my reasons here. It is very necessary that there should be a constant fund which would be available, and if this amendment is accepted, there will be the difficulty of maintaining a check in regard to the number of vehicles that would form the subject-matter of insurance at any particular moment. There would also be the difficulty in prescribing what would be the fund necessary to pay out at any particular date or at any particular point of time. Further, if there is an addition to the number of vehicles, who is to find out where there has been any addition, and by what means can it be found out as to whether there has been an addition or not. The fund will fluctuate to such an extent at every moment, that there will be practical difficulties in administering the provision. That is what we feel in connection with this amendment. We appreciate the object with which it has been put forward, namely, to further the formation of co-operative insurance societies. I submit, Sir, from a practical point of view, as there will be so many difficulties, we cannot accept it.

**Mr. Bhulabhai J. Desai** (Bombay Northern Division : Non-Muhamadan Rural) : Sir, I am afraid most of the reasons given by my Honourable friend do not exist. I will deal with each of them. The first reason he gave was that there might be some difficulty by reason of having to meet claims. Reading the clauses as I do, the words must be carefully considered by the House,—the words here are “ and the said fund shall not be available for meeting claims or other expenses except in the event of the winding up of the society ”. That point does not arise. Then, look at the absurdity of those who drafted this—rupees twenty-five thousand for every fifty vehicles or fractional part thereof. In other words, if there are fifty vehicles, Rs. 25,000, if there are 51, another 25,000 rupees. I know of many stories which I could relate to prove the absurdity of a provision like this. All they ask is that for the first fifty vehicles or fractional part thereof, a fund of twenty-five thousand shall be maintained, and for every additional vehicle there should be *pro rata* rate. That is certainly reasonable. Then, my friend said, “ Oh, we want to know whether there is an increase or decrease, how would you know

whether 50 has become 51, or 100 has become 101" ? It is really extraordinary. If you can check things under one set of circumstances, certainly you can check things under other circumstances, and, there is also the safeguard in (g) which says :

"The Society shall furnish to the Superintendent of Insurance the return required to be furnished by insurers under the provisions of the Insurance Act," and so on.

The point shortly is this, (1) that the fund is not to be touched except in the event of winding up, and (2) that the method of calculation is not only unreasonable or unjust, but something extraordinary, because for 50 vehicles it is Rs. 25,000 and for 51 vehicles it is another Rs. 25,000 or 50,000. One has never heard of such a thing. I, therefore, do appeal to my friend to consider this matter seriously and to accept this amendment.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

"That in part (a) of sub-clause (1) of clause 108 of the Bill, for the words 'every fifty vehicles or fractional part thereof' the words 'first fifty vehicles or fractional part thereof and *pro rata* for every additional vehicle' be substituted."

The motion was adopted.

**Dr. Sir Ziauddin Ahmad** : Sir, I want to move this.\* I think the motion that we have just adopted has eased the situation. Whenever they have got 50 vehicles they have got to pay Rs. 25,000, but when the number increases to 51, they have got to pay another Rs. 25,000.....

**Mr. K. Santhanam** (Tanjore *cum* Trichinopoly : Non-Muhammadian Rural) : Sir, this is barred.

**Mr. President** (The Honourable Sir Abdur Rahim) : Now, the House has accepted the proposition that up to 50 cars, it will be Rs. 25,000, and if it is 51 or more, it will be *pro rata*. So this is barred.

**The Honourable Sir Manmatha Nath Mukerji** : Sir, I move :

"That in part (a) of sub-clause (1) of clause 108 of the Bill, after the word 'fund', occurring in the fifth line, the words 'shall be lodged in such custody as the Provincial Government may prescribe' be inserted."

The object of this amendment is to enable the Provincial Government to prescribe where the fund is to be lodged, and I ask the House to accept it, unless they think it is absurd.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

"That in part (a) of sub-clause (1) of clause 108 of the Bill, after the word 'fund', occurring in the fifth line, the words 'shall be lodged in such custody as the Provincial Government may prescribe' be inserted."

**Mr. S. Satyamurti** (Madras City : Non-Muhammadian Urban) : We do not think it is absurd, but I think the word "lodged" is absurd.

**The Honourable Sir Manmatha Nath Mukerji** : Sir, there should be the word "and" after the word "prescribe."

"That in part (a) of sub-clause (1) of clause 108 of the Bill, for the words 'fifty vehicles' the words 'hundred vehicles' be substituted."



**Mr. K. Santhanam :** Sir, I am not opposing this amendment, but as the words stand, it would mean that the money shall be lodged without any interest. Therefore, I would like to suggest the words 'lodged in such custody and invested in such manner as the Provincial Governments may prescribe'.

**The Honourable Mr. A. G. Clow :** That does not arise out of this question at all. The amendment relates solely to where it is to be lodged and does not say in what form it is to be lodged.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

"That in part (a) of sub-clause (1) of clause 108 of the Bill, after the word 'fund', occurring in the fifth line, the words 'shall be lodged in such custody as the Provincial Government may prescribe and' be inserted."

The motion was adopted.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

"That clause 108, as amended, stand part of the Bill."

The motion was adopted.

Clause 108, as amended, was added to the Bill.

**Mr. Suryya Kumar Som** (Dacca Division : Non-Muhammadan Rural) : Sir, I beg to move :

"That after clause 108 of the Bill, the following new clause be added, and the subsequent clauses be re-numbered accordingly :

'109. (1) A Provincial Government shall by Notification in the Official Gazette appoint a person or a body of persons, one of whom shall have judicial experience and be not below the rank of a Subordinate Judge or a Pleader or Advocate of ten years' standing, to decide claims between the insurer, insured and third Party concerned, on accidents involving death or bodily injury or damage to property, on application made by any of the parties and their decision shall bind the parties unless within one month of the decision any of the parties institute a civil suit to set aside or modify the decision.

(2) The decision under sub-clause (1) shall have the force of a decree by a Civil Court and can be executed as such by a Civil Court having jurisdiction to execute such Civil Court's decree."

Sir, the ironical laughter with which I have been greeted shows the fate of my amendment, but as I represent my constituency I must voice the feeling of the public whether it is supported by a group or not. Let the public then judge of the attitude of those who object to this proposal of mine. This amendment of mine does not require a long speech. During the general discussion stage I have gone into the question of insurance and spent about half an hour in dealing with the utility of the insurance and the disadvantage of immediate introduction of insurance. I have drawn special attention to the fact that the insurance, as it is proposed, will do no good to anybody, because damages will not be obtainable, not because there is no insurance, not because there is no fund, but because the poor villagers cannot go through a protracted and expensive litigation in a civil court. Generally, these cases pass through three courts, namely, the original court, the District Judge's court and then the High Court. The delay is about three to five years even if one gets a decree of Rs. 100 or 50. Those who generally use the buses are not the richer classes or the higher middle classes, but only the poorer people.

When there is an accident, the poor villager has, first of all, to get his limbs which are injured, cured, in order that he may go back to earn his livelihood. Though he gets work, he may not get the same wages that he got before, he is poor, he has no reserve to institute a suit on the off-chance of getting a few rupees as compensation after three years probably, sometimes after his death. If you are really sincere that the man must get compensation, there must be some machinery or some board which can be had easily at hand, which will not be expensive, which will at once take up any accident that may take place, because in the Bill we have provided that information about all accidents should be given to the authorities. As soon as the information is received, it is not the injured man that will have to go to court, but this board itself will take up the matter and give notices to the parties and enquire in the locality or take evidence and decide practically as an executive officer, just as they do in the case of the Land Acquisition Act which is being administered in this country. If any party is aggrieved by the order of the board, the resort to the civil court is always there. I have no doubt that the decision of the board will be accepted in 80 or 90 per cent. of the cases because they will know the locality, the circumstances in which the man was injured, they will immediately get evidence of what took place and also know what the income of the man is and his position, and what compensation should be granted. That easy method of assessing damage will not injure anybody because the power of the civil court will still remain intact. I have been urging some such authority on the Government from the very beginning and I submit that without such an authority which is less costly and without a swift remedy the introduction of compulsory insurance is a sham, is *mala fide*, I do not think it is a *bona fide* chapter. Because by introducing this compulsory insurance you are saddling the motor vehicles to a greater extent without, at the same time, giving any benefit to the injured persons. I do not see what objection there can be to the instituting of a board like this. With these remarks I want to see the *bona fides* of the Government and the *bona fides* of my friends on the other side, who always say that they are working for the interests of the poor, the workers, the peasants and the cultivators, rather than for the interests of the richer people. With these remarks, I ask the Government Bench to consider the matter carefully and either accept this or bring forward some such proposal which may give immediate relief to the injured man at less cost and less loss of time. Sir, I move.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

“That after clause 108 of the Bill, the following new clause be added, and the subsequent clauses be re-numbered accordingly :

‘109. (1) A Provincial Government shall by Notification in the Official Gazette appoint a person or a body of persons, one of whom shall have judicial experience and be not below the rank of a Subordinate Judge or a Pleader or Advocate of ten years’ standing, to decide claims between the insurer, insured and third Party concerned, on accidents involving death or bodily injury or damage to property, on application made by any of the parties and their decision shall bind the parties unless within one month of the decision any of the parties institute a civil suit to set aside or modify the decision.

(2) The decision under sub-clause (1) shall have the force of a decree by a Civil Court and can be executed as such by a Civil Court having jurisdiction to execute such Civil Court’s decree.”

**The Honourable Sir Manmatha Nath Mukerji :** I am sorry I have to oppose this amendment. My Honourable friend, Mr. Som, will excuse me if in opposing his amendment I make as short a speech as he has made. The object of this amendment, I understand, is to secure expedition and to provide for convenience in respect of the settlement of claims. Now, the amendment seeks to set up a tribunal consisting of either one person or a number of persons for an entire province. My Honourable friend may well conjecture how that tribunal will be able to deal with cases coming under this Act. Take, for instance, that an accident has occurred in the district of Chittagong and the tribunal has been set up in the city of Calcutta. The parties and their witnesses will all have to come to Calcutta for the purpose of getting the claim settled. That is the first thing which this amendment speaks about. Then, the second thing is this. It is not proposed, by this amendment, to have a final award or decision in respect of the claim and, if one of the parties is dissatisfied with the decision of the tribunal, then the matter may be taken to a civil court. My Honourable friend has considerable experience of the courts and judging from our own experience also with regard to litigation in this country, it may be assumed that one or other party will certainly feel dissatisfied and will seek recourse to the civil courts for the purpose of getting rid of this decision of the tribunal. The result will be that it will merely be a duplication of procedure. There will be decisions of this tribunal and after that there will be suits and appeals and perhaps second appeals. I submit that if convenience and expedition are the objects sought to be secured by this amendment, then the amendment will defeat its own object. I, therefore, oppose this amendment.

**Mr. Lalchand Navalrai (Sind : Non-Muhammadian Rural) :** I rise to lend my support to this amendment. It appears to be a very salutary provision and it will certainly help speedy remedy to be given to those who are injured. This tribunal will help to bring about a compromise between the third parties and the insurers. When we have accepted compulsory insurance, it is our duty not to treat this matter as a trifle. We are at the fag end of this Bill but we must not forget that there are certain provisions to which we must give cool and calm consideration. This matter is not being considered with the seriousness which it deserves. Suppose a provision like this does not exist. Then what will happen? When there is a claim for damages, the parties will go to court. Of course we know that the remedy through the courts exists even now. Under the law of torts, the injured people would have gone to the court and got justice but the point is why we should not provide for a more speedy way of getting justice when we are enacting a new Bill. We know how cases in courts are protracted and what a great amount of money it costs. You have provided for compulsory insurance and why don't you make the insurer pay a just claim soon. If you are leaving it to the courts, then you are giving no relief at all. In that case, the House would have been well advised not to accept compulsory insurance at all. When you have a tribunal like this, then the result will be that there will be arbitration and the parties would like to decide the matter among themselves. My Honourable friend has said that under the amendment also this matter has been left to the courts. Of course, the ultimate resort alone is to go to the courts but what the mover of the amendment wants is that the matter should be decided judicially.

by a cheaper form of tribunal which will give speedy justice. My friend has said that one of the persons appointed to this tribunal should be a judicial officer who has got experience of these cases of damages. We know that in many cases very complicated questions of damages arise and therefore let there be one judge who will decide the matter speedily, and, therefore, he has asked for nothing but justice and I cannot understand, when justice is being asked, why should it not be that a provision like this should be made, and especially when the judicial authority or the board's decision will be final. Sir, many times we see that when arbitrations are made and when parties come to a settlement between themselves, they do consider that decision as final, and in very rare cases do they go to court. I would submit from all points of view and reading the whole of this measure I state that this is a very good provision which should be accepted; and if it is not accepted, I must remind the House that the Act with regard to the insurance portion will be absolutely incomplete.

**Mr. Bhulabhai J. Desai :** Sir, I rise to oppose the addition of this new clause, and I shall give my reasons for doing so. I respectfully agree with the Honourable the Law Member that it is going to defeat its purpose. I did my best personally to explain the matter to the Honourable the Mover of this clause that they are thinking of a wrong model. They are imagining that the scope of inquiry in a case like this can be restricted. I can understand an effect of that kind where the inquiry is limited to certain areas of large cities where a special tribunal is intelligible, but where a claim may arise at any road, at any place, in any district, it is somewhat absurd to drag the poor man who may have a claim for Rs. 500 to go to a district town before a Special Tribunal; and I again appeal to my friend that, instead of doing any good, it will do a lot of harm to the very man he wants to protect. It is no use each time having a good major premise with a wrong minor one. We do admit that we want to support the poor man: but we cannot always admit that what you say is necessarily good for him. That is the real difficulty between us. I think the Honourable the Law Member will bear me out that, in all cases of insurance, more than ninety-five per cent. of cases that I know of have never been the subject of litigation. That is the one solitary feature of an insurance contract in this country as well as abroad. I find that even in a City like Bombay, with many millions worth of business of every type, the number of cases that come up before a Court does not actually exceed 2,900 a year. It is no use, Sir, drawing a lurid picture of every dead man's ass and every injured man's limb. I do want that they should acquire at least in this particular matter, in the interests of the poor man, a sense of proportion. I have not the slightest doubt that in ninety-five cases out of a hundred this would not be needed, and I do ask them not to press this matter.

**Mr. President (The Honourable Sir Abdur Rahim) :** The question is :

"That after clause 108 of the Bill, the following new clause be added, and the subsequent clauses be re-numbered accordingly :

"109. (1) A Provincial Government shall by Notification in the Official Gazette appoint a person or a body of persons, one of whom shall have judicial experience, and be not below the rank of a Subordinate Judge or a Pleader & Advocate of ten years' standing, to decide claims between the

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insurer, insured and third Party concerned, on accidents involving death or bodily injury or damage to property, on application made by any of the parties and their decision shall bind the parties unless within one month of the decision any of the parties institute a civil suit to set aside or modify the decision.

- (2) The decision under sub-clause (1) shall have the force of a decree by a Civil Court and can be executed as such by a Civil Court having jurisdiction to execute such Civil Court's decree '."

The motion was negatived.

Clause 109 was added to the Bill.

**Dr. P. N. Banerjee :** Sir, I move :

" That after clause 109 of the Bill, the following new clause be added, and the subsequent clauses be re-numbered accordingly :

- " 110. A Provincial Government may, by notification in the official Gazette, appoint a person or a body of persons to investigate and report on accidents involving the death of or bodily injury to any person arising out of the use of motor vehicles and the extent to which their claims to compensation have been satisfied and to advise or assist such persons or their representatives in presenting their claims for compensation :

Provided that nothing in this section shall confer on any such person or body of persons the right to adjudicate in any way on the liability of the insurer or on the amount of damages to be awarded except at the express desire of the insurer concerned '."

There is a slight verbal alteration : I have added the words " or assist " after the words " to advise ", in the amendment as typed and circulated.

Sir, the advantage of the acceptance of this amendment will be that the poor man affected by an accident will get advice and assistance from a person or body of persons appointed by Government. Besides, this will avoid considerable litigation, because in the last sentence of this amendment you will find that if there is an express desire on the part of the insurer, then this authority may decide it finally. A similar clause existed in the original Bill, but that was removed by the Select Committee. The Select Committee inserted clause (h) in sub-clause (2) of clause 110. This sub-clause seeks to provide for what I want to provide here, by means of rules. But it would be better to provide it in the Act itself. My amendment is more definite and explicit than the sub-clause. Sir, I move.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

" That after clause 109 of the Bill, the following new clause be added, and the subsequent clauses be re-numbered accordingly :

- " 110. A Provincial Government may, by notification in the official Gazette, appoint a person or a body of persons to investigate and report on accidents involving the death of or bodily injury to any person arising out of the use of motor vehicles and the extent to which their claims to compensation have been satisfied and to advise or assist such persons or their representatives in presenting their claims for compensation :

Provided that nothing in this section shall confer on any such person or body of persons the right to adjudicate in any way on the liability of the insurer or on the amount of damages to be awarded except at the express desire of the insurer concerned."

**The Honourable Mr. A. G. Clow :** Sir, I support this amendment. I recognize that the point is to some extent covered by sub-clause (h) of clause 110 (2), but as Dr. Banerjea has pointed out, this differs in certain respects. In the first place, it is more explicit; it is better calculated to bring home to Provincial Governments the great desirability of doing something to assist poor litigants who may be ignorant of their rights. In the second place the person or body of persons is appointed by notification, which is obviously more convenient. In the third place, clause 110 (2) (h) relates to certain rules which have to be promulgated by the Central Government; and I anticipate that that might give rise to difficulties, because the Central Government would then be imposing an executive duty on the Provincial Governments which, in some cases, they might find it difficult to sustain. I, therefore, think that this represents an improvement on the Bill, and I commend it to the House.

**Mr. Bhulabhai J. Desai :** Sir, I had no desire to intervene in a small matter of this character, but I do wish to point out that this smacks very much of the system that I have read prevails in France. The poorer the country, the greater the number of officers and men appointed. I can understand that in a democratic country where sometimes they use very good agents for the purpose of canvassing for the Government in power. I do appeal to my Honourable friends again whether you do want all this multiplication of officers and men. If they want them, they can have them. But let it be remembered that ours is a poor country and we are multiplying the officers at every stage, whereas our constant endeavour has been to reduce the number of our friends on the other side of the House. We can ill-afford the multiplication of officers. Look at the way the clause is drafted :

"A Provincial Government may, by notification in the official Gazette, appoint a person or a body of persons to investigate and report on accidents involving the death of or bodily injury to any person, etc."

I am fully aware as to what happens when an accident occurs in the vicinity of a city. The accident is reported on at least by three sets of persons. It is reported first by the village *patel*, who is the village officer, and, then, by the police constable, and, more often than not, by the *mamlat-dar*, and now you are going to appoint another body of person or persons. At all events, I do respectfully appeal to those who wish to assist the poor man not to accept this amendment. To the extent to which we want any assistance, clause 110 (2) (h) provides for it. That is to say, a body of men may be appointed like the conciliators, whose assistance can be had without paying for it. With these words, I leave it to the Government. Naturally, they should be as solicitous as ourselves, at all events, at this stage of our mutual transitory existence not to impose more obligations if they can help them.

**Mr. President (The Honourable Sir Abdur Rahim) :** The question is :

"That after clause 109 of the Bill, the following new clause be added, and the subsequent clauses be re-numbered accordingly :

"110. A Provincial Government may, by notification in the official Gazette, appoint a person or a body of persons to investigate and report on accidents involving the death of or bodily injury to any person arising out

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of the use of motor vehicles and the extent to which their claims to compensation have been satisfied and to advise or assist such persons or their representatives in presenting their claims for compensation :

Provided that nothing in this section shall confer on any such person or body of persons the right to adjudicate in any way on the liability of the insurer or on the amount of damages to be awarded except at the express desire of the insurer concerned."

The Assembly divided :

AYES—49.

Abdul Ghani, Maulvi Muhammad.  
Abdul Hamid, Khan Bahadur Sir.  
Ahmad Nawaz Khan, Major Nawab Sir.  
Anderson, Mr. J. D.  
Aney, Mr. M. S.  
Ayyar, Mr. N. M.  
Azhar Ali, Mr. Muhammad.  
Bajpai, Sir Girja Shankar.  
Banerjee, Dr. P. N.  
Bewoor, Mr. G. V.  
Bhagechand Soni, Rai Bahadur Seth.  
Bhutto, Mr. Nabi Baksh Illahi Baksh.  
Chanda, Mr. A. K.  
Chatterjee, Mr. R. M.  
Chattopadhyaya, Mr. Amarendra Nath.  
Clow, The Honourable Mr. A. G.  
Conran-Smith, Mr. E.  
Dalal, Dr. R. D.  
Dalpat Singh, Sardar Bahadur Captain.  
Datta, Mr. Akhil Chandra.  
Dutt, Mr. S.  
Essak Sait, Mr. H. A. Sathar H.  
Faruqui, Mr. N. A.  
Fazli-Haq Piracha, Khan Bahadur Shaikh.  
Ghulam Bhik Nairang, Syed.  
Ghulam Muhammad, Mr.

Grigg, The Honourable Sir James.  
Highet, Mr. J. C.  
Kamaluddin Ahmed, Shams-ul-Ulema.  
Lalchand Navalrai, Mr.  
Lloyd, Mr. A. H.  
Mackeown, Mr. J. A.  
Maitra, Pandit Lakshmi Kanta.  
Maxwell, The Honourable Mr. R. M.  
Metcalfe, Sir Aubrey.  
Mitchell, Mr. K. G.  
Mukerji, Mr. Basanta Kumar.  
Mukerji, The Honourable Sir Manmatha Nath.  
Nur Muhammad, Khan Bahadur Shaikh.  
Parma Nand, Bhai.  
Rahman, Lieut.-Colonel M. A.  
Sant Singh, Sardar.  
Shahban, Mian Ghulam Kadir Muhammad.  
Siddique Ali Khan, Khan Bahadur Nawab.  
Som, Mr. Suryya Kumar.  
Sukthankar, Mr. Y. N.  
Sundaram, Mr. V. S.  
Umar Aly Shah, Mr.  
Zafrullah Khan, The Honourable Sir Muhammad.

NOES—38.

Abdul Qaiyum, Mr.  
Abdur Rasheed Chaudhury, Maulvi.  
Aikman, Mr. A.  
Ayyangar, Mr. M. Ananthasayanam.  
Boyle, Mr. J. D.  
Chandhury, Mr. Brojendra Narayan.  
Chunder, Mr. N. C.  
Das, Pandit Nilakantha.  
Desai, Mr. Bhulabhai J.  
Deshmukh, Dr. G. V.  
Deshmukh, Mr. Govind V.  
Gadgil, Mr. N. V.  
Govind Das, Seth.  
Gupta, Mr. K. S.

Hans Raj, Raizada.  
Hegde, Sri K. B. Jinaraja.  
Hosmani, Mr. S. K.  
James, Mr. F. E.  
Jogendra Singh, Sirdar.  
Kailash Behari Lal, Babu.  
Mangal Singh, Sardar.  
Misra, Pandit Shambhu Dayal.  
Pande, Badri Dutt.  
Ramayan Prasad, Mr.  
Ranga, Prof. N. G.  
Rao, Mr. M. Thirumala.  
Santhanam, Mr. K.  
Satyanaraya, Mr. S.

Scott, Mr. J. Ramsay.  
Sham Lal, Mr.  
Sheodass Daga, Seth.  
Singh, Mr. Gauri Shankar.  
Sinha, Mr. Satya Narayan.

Smith, Lieut.-Colonel H. C.  
Sri Prakasa, Mr.  
Subbarayan, Shrimati K. Radha Bai.  
Town, Mr. H. S.  
Varma, Mr. B. B.

The motion was adopted.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Deputy President (Mr. Akhil Chandra Datta) in the Chair.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** The question is :

“ That clause 110 stand part of the Bill.”

**Dr. P. N. Banerjea :** Sir, I move :

“ That part (h) of sub-clause (2) of clause 110 of the Bill be omitted.”

No speech is necessary because the substance of this matter has already been provided for in the clause which I moved and which was carried. This is really consequential.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** The question is :

“ That part (h) of sub-clause (2) of clause 110 of the Bill be omitted.”

The motion was adopted.

**Mr. Sri Prakasa (Allahabad and Jhansi Divisions : Non-Muhamadan Rural) :** Sir, I move :

“ That after part (g) of sub-clause (2) of clause 110 of the Bill, the following new parts be inserted :

‘ (h) the economical manner in which persons affected may be able to present their claims ;

(hh) the expeditious method of settling these claims ’.”

Sir, a reconciliation between motorists and pedestrians is a difficult matter. As we all know, when we ourselves are walking on the road we feel that there are too many motor cars ; and when we sit in a car we feel that there are too many pedestrians. I want some method by which a reconciliation could take place. I am anxious that Provincial Governments, when they are making their rules, should make such rules that all the adjustments can be made economically and expeditiously. Mere multiplication of officials only complicates matters and does not help as my Honourable Leader said this morning. It only results in what the condition of the Nawab was who when he found that there was a small amount of theft by his servant in the daily supply of his cream put an officer to supervise him. He went on putting more and more officers in charge in succession till the result was that he only got just enough cream to put on his moustache. The larger the number of officials we have, the greater will be the delay in settling these matters ; and the more expensive would be the method that would be employed. After all, we are embarking on a new experiment in third party insurance and payment of compensation, and it is just as well that Provincial Governments should have their attention drawn to this important aspect of the Bill so that they may not fail in making appropriate rules regarding these matters when they do come to frame their rules. I hope that my amendment would be acceptable to the House. Sir, I move.



**Mr. Deputy President (Mr. Akhil Chandra Datta) :** Amendment moved :

“ That after part (g) of sub-clause (2) of clause 110 of the Bill, the following new parts be inserted :

‘ (h) the economical manner in which persons affected may be able to present their claims ;

(hh) the expeditious method of settling these claims ’.”

**The Honourable Mr. A. G. Clow :** Sir, no one can quarrel with the objects underlying the amendment, but I do not think the amendment is in a form in which it can be accepted, and I do not see what is going to be done under it. I listened carefully to the Honourable Member for some indication of the type of the rules that can possibly be framed under those clauses, but I received no indication at all. He seemed to be under the impression that he was conferring certain rule-making powers on the Provincial Governments, but it is the Central Government that is concerned here. I do not understand what rules can provide for the economic manner in which persons affected may present their claims. The only step that occurs to me at the moment would be a reduction in court fees and that clearly would be a matter for the Provincial Governments whose income would be affected by it. Then coming to the second part—the expeditious method of settling these claims—I can only suppose that my Honourable friend has in mind some kind of procedure other than that laid down by the Code which applies to these matters, in other words, the introduction of some kind of special tribunal and special procedure. But I thought this morning we had decided against including provisions of that kind. I suggest that the amendment in addition to being extraordinarily obscure would not tend to further the aims which the House has in view. I oppose the amendment.

**Mr. Umar Aly Shah (North Madras : Muhammadan) :** Sir, I rise to oppose this amendment. To my mind, this Bill seems to be more dangerous than the Criminal Law Amendment Bill which we have just passed. There are about 136 clauses and 10 Schedules and nearly one thousand amendments in this Motor Vehicles Bill, and although most of the clauses have been carefully examined in the Select Committee, there are many defects and loopholes in this Bill, and, therefore, it is very necessary that it should be re-committed to a Select Committee as was the case with Mr. Ghuznavi's Coastal Traffic Bill. By this measure, Government want to compel motor owners to give bonuses through the insurance companies to all those who are suffering from accidents. I suggest that this insurance business should also be taken over by the Government, just as they have taken the power of issuing licenses to motorists and drivers. There is a great agitation against this Bill, and there is a universal feeling that drivers and motor owners will be virtually tortured by this measure. I feel that our leaders and patriots should take steps to see that such a measure is not passed. It is a well known fact that there is severe competition between the Railways and the Road, and Government is anxious to support the Railways as far as possible. They have already spent over 800 crores of rupees for building their railways, but they have not cared to help the rural parts. There are so many villages in proximity to the railway stations, and some of them had asked for flag stations but Government have given a deaf ear to their representations. Thus the poor

villagers are ignored. Government have no desire to help the poor peasants. Without a helpful understanding between Government and people, it would be difficult for any reforms being introduced. There are about 7½ lakhs of villages in India, and while roads are increased, cars also should be increased. If the roads are increased, there will be increase of business, increase of business means increase of wealth, and increase of wealth means the solution for unemployment. Poverty and unemployment can be solved if there is an increase of wealth. Government's rural uplift programme should be expanded. There was the Motor Act in existence since 1914, but Government kept quiet all these years. This measure may be passed now, but it will not be applicable to the feudatory states of India, which are about 615 in number. I suggest therefore that we should wait to introduce this measure till Federation comes, because then this Act can be introduced in those States also.....

**Dr. P. N. Banerjee :** Is this all relevant ?

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** I think he has almost finished.

**Mr. Umar Ali Shah :** I feel that this Bill should be revised completely. In fact, I feel that we should wait for the introduction of a Bill of this kind until the Federation comes. Sir, I oppose this amendment.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** The question is :

“ That after part (g) of sub-clause (2) of clause 110 of the Bill, the following new parts be inserted :

‘ (h) the economical manner in which persons affected may be able to present their claims ;

(hh) the expeditious method of settling these claims ’.”

The motion was negatived.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** The question is :

“ That clause 110, as amended, stand part of the Bill.”

The motion was adopted.

Clause 110, as amended, was added to the Bill.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** The question is :

“ That clause 111 stand part of the Bill.”

**Maulvi Abdur Rasheed Chaudhury :** Sir, I move :

“ That in clause 111 of the Bill, after the word ‘ Whoever ’ the word ‘ knowingly ’ be inserted.”

Sir, I have lost several amendments in which I made an attempt to add the word “ knowingly ”, but that does not discourage me. I believe I am right when I say that the intention of the offender has to be proved before he is convicted, and, I believe, on that basis, I am making this amendment.

Sir, a look into this Chapter will show that this Bill has provided severe punishments in almost all the conceivable offences. We have provided for punishment for disobedience of orders, offences relating to

[Maulvi Abdur Rasheed Chaudhury.]

licenses, driving at excessive speed, driving recklessly, and so on, and for all the conceivable offences we have provided punishment, and I should say, severe punishment. Now, Sir, we are going to provide punishment for unknown offences under this Act. The offences for which the offenders are to be punished are given serially in sections 112 to 126. Now, those sections clearly show the extent of the offences for which the offender will be punished. This clause 111 provides that even for violating the rules made under this Act, the persons who violate the rules will be punished. We have been discussing at great length the different offences for which the offenders will be punished, but the rules will be made by the executive; the rules will not be discussed in this House, and even for the breach of rules the drivers of motor cars will be punished. The drivers will have very little knowledge of the rules. The rules will not be circulated, the rules will not be published in the vernacular papers, in provincial papers for the information of the public. So far as the rules are concerned, the drivers will be altogether ignorant, and I should like that they should not be punished for their ignorance. So, I submit that the word "knowingly" should be inserted, so that they may be punished for offences which they know to be offences and not otherwise. Sir, I move.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** Amendment moved :

"That in clause 111 of the Bill, after the word 'Whoever' the word 'knowingly' be inserted."

**The Honourable Sir Manmatha Nath Mukerji :** I oppose this amendment. It will be seen that clause 111 deals with offences which are not provided for in any of the other clauses of Chapter IX. Those that are provided in the other clauses of this Chapter are offences of a more serious nature. The offence which clause 111 deals with is punishable only with a fine. If there is a law or a rule made under the law, it is expected that that law or that rule will be complied with, and contravention of that law or that rule should be made punishable, quite apart from the question as to whether the man who contravenes it does so knowingly or in ignorance of the law or rule. Ignorance of law is no excuse and I therefore submit that there is no reason behind this amendment which has been proposed. I submit that this amendment ought to be rejected.

**Dr. Sir Ziauddin Ahmad :** My Honourable friend, Mr. Abdur Rasheed Chaudhury, has been pressing for the last two weeks that the word "knowingly" ought to be inserted practically in all the clauses so that punishment be given whatever the man committed the crime deliberately and with knowledge. In several cases we were told on the floor of the House that the word "knowingly" is implied in the wording of the sentence itself and therefore that it was unnecessary. But now a new reason has been set forth that the word is useless because knowledge is not necessary for punishment. I think that those of us who are not lawyers have been treated rather unfairly in this particular respect. At one time it is said that it is unnecessary because it is implied, and at another time it is said that it is useless because knowledge is not necessary. To punish a man for an act committed by a relative of his, say, without his knowledge, is rather harsh.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** The question is :

“ That in clause 111 of the Bill, after the word ‘ Whoever ’ the word ‘ knowingly ’ be inserted.”

The motion was negatived.

**Dr. Sir Ziauddin Ahmad :** I beg to move :

“ That in clause 111 of the Bill, for the word ‘ fifty ’ the word ‘ two ’ be substituted.”

My task has become very simple, because the Honourable the Law Member has said that the offences under this clause are not of a serious nature. We really want some kind of fine which will have deterrent effect so that people may not commit those particular offences. It is not desirable for that purpose to have a very severe penalty. If the intention is to stop people from doing the thing, a small fine will do, but if the intention is to collect money for the revenue of the Provincial Government, that is an entirely different matter. I may say in order to avoid many speeches in future, that the view which I take throughout the discussion of this chapter is that the punishments proposed are rather heavy. If there is a case of cheating I think it is right that you should imprison a person, but if it is merely ordinary driving and ignorance of rule, to send a man to jail practically amounts to this that we ought not to have motor cars at all. In this particular clause we deal with trivial offences and in such a case a very small fine is enough. Very often cases under this clause will be tried by an honorary magistrate. He very often sits at a public place where these motor buses are parked. As in the case of the railway magistrate who sits at the railway station and cases are tried by him then and there similarly in this case too, the honorary magistrate will sit at a public place and try cases.

Moreover the punishment depends upon the whims and fancies of the honorary magistrate concerned. If he is a strict magistrate he may fine Rs. 50. If he is lenient, he may perhaps lower the fine. Most of us have got experience of honorary magistrates. The cases are not decided on the merits. Very often they are decided by external influences, and in order to please the policemen, very often they give the maximum punishment. It may be argued that as Rs. 50 is the maximum punishment, in fact the fine will be much smaller, say, 10, or 5 or 2. I remember the case of one honorary magistrate. The punishment was both imprisonment and fine, and when he was asked why such a maximum fine was imposed he said that he did so because there was no rule to impose any higher fine. This is the mentality of a large number of these honorary magistrates. Had it been an ordinary court I would not have argued like this, but as these cases, being trivial, are likely to be tried by honorary magistrates, I think it is but reasonable that the quantum of fine ought to be Rs. 2. Sir, I move.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** Before I place the amendment before the House, I should like to draw the attention of the Honourable the Mover of the amendment that the word ‘ fifty ’ occurs in two places. Does his amendment apply to both places? In that case, the last one would read as “ two hundred and two rupees ”.

**Dr. Sir Ziauddin Ahmad :** I mean, Sir, that it should refer to the word " fifty " in the fourth line of the clause.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** Very well. Amendment moved :

" That in clause 111 of the Bill, for the word ' fifty ', in the fourth line, the word ' two ' be substituted."

**Mr. G. D. Walker (Assam : Nominated Official) :** I rise to oppose this amendment. I have great sympathy with all those who have given notices of amendments to reduce penalties whether of fine or of imprisonment, but I do not think that they are taking the most expedient way of securing what they intend. Ordinarily, the magistrate trying a motor case does not think at all about what the maximum punishment awarded for the offence is. He deals with the case, first, of course, according to the gravity of the offence, and, secondly, according to the capacity of the accused person, the person convicted, to pay the fine. The result is that the magistrate never thinks at all as to whether there is a maximum or not. Some day a more serious offence than usual takes place or the accused person is one of those referred to by the framers of the Indian Penal Code, as one to whom the ordinary fine is a matter for contempt. I refer to people like Corporations and other wealthy people. If the magistrate wants to fine them and you reduce your maximum, it is the rich man who is getting off and the poor man is protected because the magistrate ordinarily considers the circumstances of the offender.

I should also like to reply to the argument brought forward by Dr. Sir Ziauddin Ahmad. He says that the honorary magistrate is guided by the maximum that he can impose. If you put a maximum pretty low down, he thinks that that is good enough, that it is not a severe offence, and he fines up to that ; but if you put the maximum at Rs. 500 or Rs. 1,000, he never attempts to fine so heavily. Sir, I oppose the amendment.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** The question is :

" That in clause 111 of the Bill, for the word ' fifty ', in the fourth line, the word ' two ' be substituted."

The motion was negatived.

**Maulvi Abdur Rasheed Chaudhury :** Sir, I move :

" That in clause 111 of the Bill, for the word ' fifty ', occurring in the fourth line, the word ' five ' be substituted."

The reasons advanced by my friend, Sir Ziauddin Ahmad, apply to this amendment also. I have raised the figure to Rs. 5. The Honourable the Law Member said that this clause will not deal with serious offences. If that is so, I do not see any reason why a fine of Rs. 50 should be provided. What is the idea of the originators of this Bill in making it so stringent ? By the enactment of the Arms Act, during the last 160 years, Government have made coward of the people, and they are afraid of touching a gun. By making this Bill so stringent, you are doing the same thing. You like that nobody should touch a motor car. I hope the House will consider this matter carefully and provide a light punishment.

## THE MOTOR VEHICLES BILL.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** The question is :  
 “ That in clause 111 of the Bill, for the word ‘ fifty ’, occurring in the fourth line, the word ‘ five ’ be substituted.”

The motion was negatived.

**Sardar Mangal Singh (East Punjab : Sikh) :** Sir, I move :

“ That in clause 111 of the Bill, for the word ‘ fifty ’, occurring in the fourth line, the word ‘ twenty ’ be substituted.”

I shall not take much time of the House as the matter has been already discussed. This clause deals with the punishment of offences which have not been covered by this Bill and confers very wide powers on the courts. Even the contravention of any rule made thereunder is punishable. My second reason is that the people to be dealt with are mostly poor people, and, therefore, a fine of Rs. 50 is too much. Moreover, if there is a fine of Rs. 50 or below, there is no appeal to the Sessions Court, and, therefore, it stands to reason that the punishment should be very low. I am aware that in the original Bill it was Rs. 100, and the Select Committee reduced it to Rs. 50, but I think the figure should have gone down still further. Mine is a golden mean between 50 and 5 and 2 moved by the other Members. I hope the Honourable Member in charge will accept it.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** Amendment moved :

“ That in clause 111 of the Bill, for the word ‘ fifty ’, occurring in the fourth line, the word ‘ twenty ’ be substituted.”

**The Honourable Mr. A. G. Clow :** In spite of the plea that has just now been put forward, I am afraid I must oppose the amendment. The two previous speakers said that the Honourable the Law Member said that no serious offences came under this section. He did not say that. He said that the most serious offences did not come under it and that this dealt with the less serious ones but there are some which are serious. For example, there is driving without a licence, even when a man is disqualified. Among many other offences to be dealt with by this clause are such offences as driving an unregistered vehicle, contravening the rules regarding the dimensions of the vehicles, tampering with speed governors and offences of that character. Sardar Mangal Singh has said that most of the offenders would be poor men. Well, that may be so but we have to fix a maximum which is going to be a deterrent also to those who are not and I do not think that Rs. 50 as a maximum is at all unreasonable. It would not be imposed on a poor man for a first offence.

**Mr. Lalchand Navalrai :** I thought that this amendment, coming as it does from my friend belonging to the Congress Party, will be accepted by the Government. This clause does not apply to very serious offences ; it is only a few offences which are not provided for specifically that this provision will apply to. Now for instance if a driver were to take one man more, he will come under this clause and for that he should pay up to Rs. 50, is unreasonable.

**The Honourable Mr. A. G. Clow :** Not necessarily.

**Mr. Lalchand Navalrai :** What I am submitting is that these are offences for which you should not fix the maximum at as high as Rs. 50 ; that is too much. I submit that it would be reasonable to have Rs. 20 because then we will see that a proportion has been made between the bigger offences and the smaller offences. Now as regards the question whether this will apply to the rich man or the big man or to the poor man, I submit that, so far as both are concerned, why should there be any difference between a rich man and a poor man when the offence that is being committed is in itself a small one ? In respect of a small offence committed by a rich man or by a poor man the punishment should not be graduated according to whether one is a rich or poor. Then again my learned friend said that magistrates would not necessarily impose the maximum fine of Rs. 50, they might even fine two rupees as suggested by my Honourable friend, Sir Ziauddin Ahmad. But I submit we have some experience of these magistrates. I congratulate the Honourable Mr. Walker if he is so sympathetic a magistrate as to make that distinction and feel for poor. When the maximum is put at Rs. 50, if the magistrate feels some mercy, he won't come down to Rs. 20 but perhaps to Rs. 40. I submit there ought not to be an insistence by Government on every provision that was made in the Select Committee and they should not necessarily stick to it but they should listen to the view of this House. At any rate in matters like this a little leniency and sympathy should be shown. It is a question of punishment after all. You are going to make this an Act for the first time. Let people understand your Act fully and you then provide for more punishment in the light of experience gained by you. Therefore I submit this is a very reasonable amendment and I would request the Congress Members to support it.

**Some Honourable Members :** Sir, I move that the question be now put.

**Dr. Sir Ziauddin Ahmad :** Sir, if the Honourable the Mover might agree to one proposal and that proposal is this that all the cases coming under this Act will be tried by paid magistrates and not by honorary magistrates, then probably I will not oppose any of these punishments. I know one honorary magistrate who never imposed a fine during his tenure of office as honorary magistrate and I may say that it is myself, Sir, during my five years as an honorary magistrate I never imposed any fine. Perhaps my friend, Mr. Sri Prakasa, may guess why I did not.

**Mr. Bhulabhai J. Desai :** May we know what your punishment was ?

**Dr. Sir Ziauddin Ahmad :** I myself did not impose a fine because I never tried a case. I have been for five years a briefless magistrate but I know that I am the only person who has ever been a briefless magistrate. There are other important honorary magistrates who want to try a very large number of cases in order to show their importance, and I know of a number of magistrates who always go in for the maximum punishment. Therefore, it is very desirable that in these cases which in cent per cent of cases will be tried by the honorary magistrates, the amount of fine should be something reasonable.

**Some Honourable Members :** I move that the question be now put.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** The question is that the question be now put.

The motion was adopted.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** The question is :

“ That in clause 111 of the Bill, for the word ‘ fifty ’, occurring in the fourth line, the word ‘ twenty ’ be substituted.”

The motion was adopted.

**Pandit Lakshmi Kanta Maitra :** Sir, I move :

“ That in clause 111 of the Bill all the words occurring after the words ‘ to fifty rupees ’ be omitted.”

Sir, the House, I believe, has realised that clause 111 is an omnibus penal provision which is intended to meet all cases involving breaches of the provisions made in this Bill as also breaches of rules made in connection with this Bill. Sir, in connection with previous amendments the matter has been fully discussed and it has been made abundantly clear that whatever might be said by one or two Honourable Members on the Treasury Benches, the cases contemplated in clause 111 will be not only light offences but in most cases merely technical offences, purely technical breaches of certain mandatory provisions made in this Bill. Again my Honourable friend, Mr. Mitchell, is vigorously shaking his head. Sir, merely shaking the head never carries one very far. Sir, by this amendment I want to avoid a special enhanced punishment for what may be purely technical offences. Is it seriously suggested that for such an offence, for instance, as not keeping proper records of work, for which a man may be punished with a fine which may extend to Rs. 20, that on a subsequent occasion for breach of another provision in the Act, such as for not fixing the hour of duty beforehand or for causing obstruction or inconvenience, that for every such subsequent breach, on his part, of these so-called provisions, there should be a statutory provision for enhanced sentences? This is most unreasonable to say the least of it. In connection with the previous amendment, my Honourable friend, Mr. Clow, argued that the punishment should be sufficiently deterrent if it is to have any effect. May I remind him that in the opinion of penologists, the object of penal legislation is that it should not merely be deterrent but that it has a three-fold purpose,—it should be deterrent, reformatory and retributive. In modern times it is the reformatory element that is certainly the most important aspect of penal legislation; but the scheme of penalties provided in this chapter emphasizes only the deterrent and retributive aspects, and is reminiscent of the medieval ages when for petty offences like larceny a man used to be hanged. Does my Honourable friend, Mr. Clow, want to go back to those days? I do not know if my Honourable friend, Mr. Clow, wants to go back to the old times or he wants to move along with the modern times. The Indian Penal Code is generally extolled as the monument of codification. May I ask him if even in the Indian Penal Code there are very many provisions for such enhanced sentences for second offences? I admit there is a provision here and a provision there, when, after conviction in a parti-



[Pandit Lakshmi Kanta Maitra.]

cular case, the first conviction may be adduced as evidence but the scheme of providing enhanced punishment for second offences is quite foreign to the spirit of the Indian Penal Code which has held the field for about 75 years. So I do not want the Honourable Mr. Clow to provide, in a Bill like this, so severe penalties—in fact, a regular system of heavy penalties—which will, in effect, completely wipe out those who are engaged in this trade. It is far from me to suggest that one should minimise the seriousness of cases of a grave nature, but certainly, I shall not be a consenting party and I will also ask my Honourable friends here not to be a consenting party, to a legislation which prescribes a statutory and heavy punishment for the commission or repetition of what might be purely technical or trivial offences. If the amendment is allowed to be passed, then may I ask my Honourable friend what would be the harm if a man convicted of a second breach of another provision either of this Act or any rules made under it is fined to the extent of Rs. 50 ?

The Honourable Mr. A. G. Clow : It is now Rs. 20.

Pandit Lakshmi Kanta Matira : Is it a very small amount ? But he may be fined twice or thrice and it may go up to Rs. 50 or more in the aggregate. Rs. 20 may be a paltry sum to those who are drawing Rs. 5,000 a month but these motor drivers who are engaged in this trade do not get generally more than Rs. 15 or Rs. 20 or Rs. 25 at the most a month. You are making legislation for this country and not for England. Please do not forget that the average income of a man in this country is incomparably less than that of an Englishman in England. You have to bear that fact in mind. So, I submit that this provision should be deleted. I would particularly ask my Honourable friends of the Congress Party to remember that even the much-maligned motor drivers very often come from the same ranks as we do. They have taken to this profession because unemployment, poverty or economic necessity have forced them to join it. They are our own kith and kin. Therefore, it will be very impolitic or unwise on our part to make punishment so deterrent that people will be scared away from it. Let us not forget the services that these motor people render us in our political activities. Let us not be so hard on them. Sir, I move.

Mr. Deputy President (Mr. Akhil Chandra Datta) : I have got to invite the attention of the Honourable the Mover of this amendment to the fact that in consequence of the previous amendment, namely, 670, being adopted by the House, the word 'fifty' is not there. It ought to be substituted by 'twenty'.

Pandit Lakshmi Kanta Maitra : Yes, Sir.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

" That in clause 111 of the Bill, all the words occurring after the words 'to twenty rupees' be omitted."

**The Honourable Mr. A. G. Clow :** Sir, I do not know if it is much good my repeating what I said before, that is, in the case of an omnibus clause like this you have got to consider the most serious offence and the wealthier offender. That does not imply that when you have a poor man before you, you are going to fine him the maximum, nor does it even imply that when a second offence is committed, you are going above the maximum for the first one. My Honourable friend referred to the Indian Penal Code and said that we would not find any or many of these enhanced penalties there. That is true. But in most cases, when the Indian Penal Code mentions a fine, it mentions a fine of no limit. This is a method of clemency rather than of severity because, if we are going to have a single penalty, obviously, we must take into consideration, in fixing the limit of that penalty, the man who is not a first offender but a habitual offender, and by this method we are able to fix a lower maximum for the first offence. I am prepared to concede that the maximum penalty in this case may be a little high for all the offences but one, and to that I hope the House will accord special treatment. There are amendments later on to reduce that maximum. But I suggest that the principle of having an enhanced penalty is sound and I oppose the amendment.

**Sardar Sant Singh** (West Punjab : Sikh) : Sir, the Honourable Member for Communications has ignored one important fact when making a reply to this motion, and that is that by prescribing one penalty for the first offence and then prescribing a higher penalty for the second or the third offence, he puts forward a clear indication for the guidance of the courts and the magistrates that the second offence is to be visited by a higher penalty than the first one. This very comparison makes it obnoxious in a Bill of this kind. Probably, he ignores this fact that a person who drives a motor vehicle has a capital of about Rs. 3,000 or Rs. 2,500, and his earning on that is so meagre that the visiting of a higher penalty would mean the practical deprivation of his livelihood. Therefore, I appeal again to my Honourable friend to reconsider his decision and to realise that by providing these comparative penalties, he will be forcing the hands of the Courts to give a higher penalty to a man with a small capital. I, therefore, support this motion.

**Mr. Deputy President** (Mr. Akhil Chandra Datta) : The question is :

“ That in clause 111 of the Bill, all the words occurring after the words ‘ to twenty rupees ’ be omitted.”

The Assembly divided :

AYES—20.

Abdur Rasheed Chaudhury, Maulvi.  
Aney, Mr. M. S.  
Banerjee, Dr. P. N.  
Bhutto, Mr. Nabi Baksh Illahi Baksh.  
Chattopadhyaya, Mr. Amarendra Nath.  
Essak Sait, Mr. H. A. Sathar H.  
Fazl-i-Haq Piracha, Khan Bahadur  
Shaikh

Ghulam Bhik Nairang, Syed.  
Ismail Khan, Haji Chaudhury Muham-  
mad.  
Maitra, Pandit Lakshmi Kanta.  
Mehr Shah, Nawab Sahibzada Sir Sayad  
Muhammad.  
Nauman, Mr. Muhammad.  
Parma Nand, Bhai.

Rafiuddin Ahmad Siddiquee, Shaikh.  
Sant Singh, Sardar.  
Shahban, Mian Ghulam Kadir Muham-  
mad.

Som, Mr. Surya Kumar.  
Umar Aly Shah, Mr.  
Zafar Ali Khan, Maulana.  
Ziauddin Ahmad, Dr. Sir.

## NOES—76.

Abdul Hamid, Khan Bahadur Sir.  
Abdul Qaiyum, Mr.  
Ahmad Nawaz Khan, Major Nawab Sir.  
Aikman, Mr. A.  
Anderson, Mr. J. D.  
Ayyangar, Mr. M. Ananthasayanam.  
Ayyar, Mr. N. M.  
Bajpai, Sir Girja Shankar.  
Bewoor, Mr. G. V.  
Boyle, Mr. J. D.  
Chaliha, Mr. Kuladhar.  
Chanda, Mr. A. K.  
Chapman-Mortimer, Mr. T.  
Chatterjee, Mr. R. M.  
Chaudhury, Mr. Brojendra Narayan.  
Chunder, Mr. N. C.  
Clow, The Honourable Mr. A. G.  
Conran-Smith, Mr. E.  
Dalal, Dr. R. D.  
Dalpat Singh, Sardar Bahadur Captain.  
Das, Mr. B.  
Das, Pandit Nilakantha.  
Desai, Mr. Bhulabhai J.  
Deshmukh, Dr. G. V.  
Deshmukh, Mr. Govind V.  
Dutt, Mr. S.  
Faruqui, Mr. N. A.  
Gadgil, Mr. N. V.  
Ghulam Muhammad, Mr.  
Govind Das, Seth.  
Grigg, The Honourable Sir James.  
Gupta, Mr. K. S.  
Hans Raj, Raizada.  
Hegde, Sri K. B. Jinaraja.  
Highet, Mr. J. C.  
Hosmani, Mr. S. K.  
James, Mr. F. E.  
Jawahar Singh, Sardar Bahadur Sardar  
Sir.  
Jedhe, Mr. K. M.

Jogendra Singh, Sirdar.  
Kailash Behari Lal, Babu.  
Kamaluddin Ahmed, Shams-ul-Ulema.  
Lloyd, Mr. A. H.  
Mackeown, Mr. J. A.  
Mangal Singh, Sardar.  
Maxwell, The Honourable Mr. R. M.  
Metcalfe, Sir Aubrey.  
Miller, Mr. C. C.  
Misra, Pandit Shambhu Dayal.  
Mitchell, Mr. K. G.  
Mukerji, Mr. Basanta Kumar.  
Mukerji, The Honourable Sir Manmatha  
Nath.  
Nur Muhammad, Khan Bahadur Shaikh.  
Paliwal, Pandit Sri Krishna Dutta.  
Pande, Mr. Badri Dutt.  
Rahman, Lieut.-Colonel M. A.  
Ramayan Prasad, Mr.  
Ranga, Prof. N. G.  
Rao, Mr. M. Thirumala.  
Santhanam, Mr. K.  
Satyamurti, Mr. S.  
Scott, Mr. J. Ramsay.  
Sham Lal, Mr.  
Sheodass Daga, Seth.  
Sher Muhammad Khan, Captain Sardar  
Sir.  
Singh, Mr. Gauri Shankar.  
Sinha, Mr. Satya Narayan.  
Smith, Lieut.-Colonel H. C.  
Sri Prakasa, Mr.  
Subbarayan, Shrimati K. Radha Bai.  
Sukthankar, Mr. Y. N.  
Sundaram, Mr. V. S.  
Town, Mr. H. S.  
Varma, Mr. B. B.  
Walker, Mr. G. D.  
Zafrullah Khan, The Honourable Sir  
Muhammad.

The motion was negatived.

**Mr. Amarendra Nath Chattopadhyaya** (Burdwan Division : Non-Muhammadian Rural) : Sir, I beg to move :

“That in clause 111 of the Bill, for the words ‘two hundred and fifty rupees’ the words ‘one hundred rupees’ be substituted.”

Sir, I have very little to say about this amendment, since much has been said on the previous amendments. Sir, I simply move.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** Amendment moved :

“ That in clause 111 of the Bill, for the words ‘ two hundred and fifty rupees ’ the words ‘ one hundred rupees ’ be substituted.”

**The Honourable Mr. A. G. Clow :** As I indicated earlier, I am prepared to admit that the enhanced penalty for most cases is pitched a little on the high side. There is, however, by accident, one rather serious offence included here, namely, driving without a license even when one is disqualified. My Honourable friend, Mr. Mitchell, has tabled an amendment which is now in front of the House and is designed to transfer that to another clause. I hope the House will agree to that. Subject to that reservation, I am prepared to accept this amendment.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** The question is :

“ That in clause 111 of the Bill, for the words ‘ two hundred and fifty rupees ’ the words ‘ one hundred rupees ’ be substituted.”

The motion was adopted.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** The question is :

“ That clause 111, as amended, stand part of the Bill.”

The motion was adopted.

Clause 111, as amended, was added to the Bill.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** The question is :

“ That clause 112 stand part of the Bill.”

**Mr. Amarendra Nath Chattopadhyaya :** Sir, I move :

“ That in clause 112 of the Bill, after the word ‘ Whoever ’ the word ‘ wilfully ’ be inserted.”

Those who have any experience of how drivers are hauled up for small offences cannot but support this amendment. I do not think Mr. Clow will object to this small amendment. So I move it.

[At this stage, Mr. President (The Honourable Sir Abdur Rahim) resumed the Chair.]

**Mr. President (The Honourable Sir Abdur Rahim) :** Amendment moved :

“ That in clause 112 of the Bill, after the word ‘ Whoever ’ the word ‘ wilfully ’ be inserted.”

**The Honourable Sir Manmatha Nath Mukerji :** Sir, although the amendment does not seem to be necessary, we have no objection to it and we accept it.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 112 of the Bill, after the word ‘ Whoever ’ the word ‘ wilfully ’ be inserted.”

The motion was adopted.

**Maulvi Abdur Rasheed Chaudhury** : Sir, I move :

“ That in clause 112 of the Bill, for the words ‘ two hundred ’ the word ‘ twenty ’ be substituted.”

Sir, a look into the clause will show that when a man does anything which he does not know to be an offence, it may be construed as an offence and he is to be punished for that also. This is one reason. The other is very obvious. My country is a very poor country : our average income before the depression was only Rs. 82 a year and now it is calculated to be about Rs. 60—that is, on the average a man earns about Rs. 5 a month only. If we fine the man Rs. 200, the poor driver will have to part with three years’ pay, and his dependants will have to starve. Let a little compassion be shown to the poor drivers of this country and let not the punishment be as high as Rs. 200. The maximum should be Rs. 20. Sir, I move.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 112 of the Bill, for the words ‘ two hundred ’ the word ‘ twenty ’ be substituted.”

**The Honourable Mr. A. G. Clow** : Sir, I would merely point out that after the amendment moved by Mr. Chattopadhyaya just now, this has become a case of wilful disobedience. Nobody need wilfully disobey unless he wants to, and I think the punishment here is correct.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 112 of the Bill, for the words ‘ two hundred ’ the word ‘ twenty ’ be substituted.”

The motion was negatived.

**Mr. M. Thirumala Rao** : Sir, I move :

“ That in clause 112 of the Bill, for the word ‘ two ’, occurring in the last line, the word ‘ one ’ be substituted.”

This is only a reduction of the fine from Rs. 200 to Rs. 100. Sir, I move.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 112 of the Bill, for the word ‘ two ’, occurring in the last line, the word ‘ one ’ be substituted.”

**The Honourable Mr. A. G. Clow** : I think, as I have already said, that the punishment here is appropriate, and I oppose the amendment.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 112 of the Bill, for the word ‘ two ’, occurring in the last line, the word ‘ one ’ be substituted.”

The motion was negatived.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 112, as amended, stand part of the Bill.”

The motion was adopted.

Clause 112, as amended, was added to the Bill.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 113 stand part of the Bill.”

**Maulvi Abdur Rasheed Chaudhury** : Sir, I move :

“ That in clause 113 of the Bill, before the word ‘ imprisonment ’ the word ‘ simple ’ be inserted.”

Rigorous imprisonment is intended only for those who are guilty of moral turpitude. In this case it does not show that the offenders who are to receive the punishment are of that nature. I think the House will approve that in no case where moral turpitude is not involved should the imprisonment be rigorous. Any imprisonment awarded should be simple, not rigorous. So I say that my amendment should be accepted and rigorous imprisonment should not be meted out to these poor drivers.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 113 of the Bill, before the word ‘ imprisonment ’ the word ‘ simple ’ be inserted.”

**The Honourable Sir Manmatha Nath Mukerji** : Sir, I oppose this amendment. I do not find that any reason exists why we should exclude rigorous imprisonment from the provisions of this section. The word imprisonment has been used in the clause and it may mean either simple or rigorous, and it will be in the discretion of the magistrate to inflict the one or the other sentence. Sir, I oppose.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 113 of the Bill, before the word ‘ imprisonment ’ the word ‘ simple ’ be inserted.”

The motion was negatived.

**Mr. K. G. Mitchell** : Sir, I beg to move, with your permission, an amendment which was circulated this morning. The amendment is :

“ That in clause 113 of the Bill, after the word ‘ licence ’, in line two, insert the words ‘ drives a motor vehicle in a public place or ’.”

The object of this is that driving a motor vehicle in a public place when disqualified for driving was one of the serious offences which was not covered by a specific provision and included in the general penal clause 111. Owing to a general wish, the penalty in that has been reduced, and we thought it necessary to make specific provision for this offence. Sir, I move.

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**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 113 of the Bill, after the word ‘ licence ’, in line two, insert the words ‘ drives a motor vehicle in a public place or ’.”

The motion was adopted.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 113, as amended, stand part of the Bill.”

The motion was adopted.

Clause 113, as amended, was added to the Bill.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 114 stand part of the Bill.”

**Maulvi Abdur Rasheed Chaudhury** : Sir, I move :

“ That in sub-clause (1) of clause 114 of the Bill, for the words ‘ two hundred ’ the word ‘ twenty ’ be substituted.”

As I said before, the drivers are a poorly paid people, and if a driver is fined Rs. 200 he loses three years’ earnings, and it will bring on an immense amount of suffering on his family. I think, Sir, the House will have compassion and prescribe a lower punishment as I have suggested.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in sub-clause (1) of clause 114 of the Bill, for the words ‘ two hundred ’ the word ‘ twenty ’ be substituted.”

The motion was negatived.

**Pandit Lakshmi Kanta Maitra** : Sir, I move :

“ That in sub-clause (1) of clause 114 of the Bill, for the word ‘ two ’ the word ‘ one ’ be substituted.”

Sir, clause 114 deals only with cases of driving at excessive speed irrespective of whether any accidents have occurred or not, and if the man is sentenced to a maximum penalty of Rs. 200, it will be really very severe. Sir, I move.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in sub-clause (1) of clause 114 of the Bill, for the word ‘ two ’ the word ‘ one ’ be substituted.”

**Mr. K. G. Mitchell** : Sir, I oppose this amendment. The offence of over-speeding is one which is indulged in, I would say, more by the idle rich than by the poor people driving buses. Also the Honourable the Mover said something about the great hardship to the people. A point I would like to bring to the notice of the House is that over-speeding does considerable damage to roads, and somebody has to pay for it. The offence of over-speeding is going to be very difficult to prove. There are amendments to make it even more difficult to prove, and I think that for the protection of the public on the roads, and for the protection of the roads, and also in view of the difficulty of proof the maximum penalty should be kept at a high rate for all serious offences.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in sub-clause (1) of clause 114 of the Bill, for the word ‘ two ’ the word ‘ one ’ be substituted.”

The motion was adopted.

**Maulvi Abdur Rasheed Chaudhury** : Sir, I move :

“ That in sub-clause (2) of clause 114 of the Bill, after the word ‘ Whoever ’ the word ‘ knowingly ’ be inserted.”

This clause is intended to punish the owner of the car for the offence of his driver. I want by this clause that the owner should be punished if he has any connection with the offence committed by the driver. An innocent owner may be at his house while the driver is out and the driver may meet with an accident. The police man goes and catches hold of him and says, you must come to the Court. That is a strange offence. The House should consider it calmly and see that the innocent owner is not punished. Sir, I move.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in sub-clause (2) of clause 114 of the Bill, after the word ‘ Whoever ’ the word ‘ knowingly ’ be inserted.”

**Dr. Sir Ziauddin Ahmad** : I admire the persistency of my Honourable friend to use the word ‘ knowingly ’ wherever he can, and in some cases he would use the word ‘ knowingly ’ even before the word ‘ knows ’. One need not be ashamed even if he is in a minority of one. In one case I was myself a solitary man in the whole House. I voted as one man and the others voted in the opposite lobby. Sir, this is a punishment imposed for excessive driving. A person who is sitting behind the car very often will not know the speed at which the car is going. It is the driver who is driving the car and the man is sitting behind. There is the speedometer, of course. It is worth consideration whether this particular amendment should be accepted.

**Mr. Bhulabhai J. Desai** : I cannot say how any person can unknowingly cause another person to drive a motor car, except, of course, when he is in a state of absent mindedness.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in sub-clause (2) of clause 114 of the Bill, after the word ‘ Whoever ’ the word ‘ knowingly ’ be substituted.”

The motion was negatived.

**Pandit Lakshmi Kanta Maitra** : Before you pass on to the next amendment, may I move an amendment which is only consequential, namely,—

“ That in sub-clause (2) of clause 114 of the Bill, for the word ‘ two ’ the word ‘ one ’ be substituted.”

**The Honourable Mr. A. G. Clow** : That is not consequential at all, Sir,



**Mr. President** (The Honourable Sir Abdur Rahim) : Then, the Honourable Member cannot move. No. 699.

**Maulvi Abdur Rasheed Chaudhury** : I move :

“ That in sub-clause (2) of clause 114 of the Bill, for the words ‘ two hundred ’ the word ‘ twenty ’ be substituted.”

I have given my reasons before on a similar amendment, and I need not repeat them. I move.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in sub-clause (2) of clause 114 of the Bill, for the words ‘ two hundred ’ the word ‘ twenty ’ be substituted.”

The motion was negatived.

**Pandit Lakshmi Kanta Maitra** : I move :

“ That to sub-clause (3) of clause 114 of the Bill, the words ‘ and supported by two independent witnesses ’ be added at the end.”

This sub-clause deals with cases of driving at excessive speed and it is quite possible that people who are out for mischief may make an allegation that a man was driving at an excessive speed. As soon as the man slows down or is asked to stop, the speedometer would not indicate the speed at which the car was moving before. It would be difficult to disprove the statement made by one who alleges that the man had been driving at a speed in excess of what was permitted. In such cases, if the matter is simply made to rest on one person's statement who may be pursuing the car either with a motor cycle or with another car, he will be the only witness on whose evidence the man will be punished. The speedometer of the complainant may go wrong, or may be out of order, and in such cases I think it is desirable, in order to prevent a miscarriage of justice, that some independent evidence should be adduced in support of the allegation of driving at excessive speed, and this amendment seeks only to provide for that.

**The Honourable Sir Muhammad Zafrullah Khan** (Member for Commerce and Labour) : Where will these two witnesses be sitting ?

**Pandit Lakshmi Kanta Maitra** : They may be sitting, not necessarily on the Treasury Benches. They may walk on the road, they may not even sit there, they may stand near about and if they cannot be produced at trial, the prosecution must fail and there will be no help for my Honourable friend, Sir Muhammad Zafrullah Khan.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That to sub-clause (3) of clause 114 of the Bill, the words ‘ and supported by two independent witnesses ’ be added at the end.”

The motion was negatived.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 114, as amended, stand part of the Bill.”

The motion was adopted.

Clause 114, as amended, was added to the Bill.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 115 stand part of the Bill.”

**Maulvi Abdur Rasheed Chaudhury** : Sir, I move :

“ That clause 115 of the Bill be omitted.”

Under clause 114, we have provided punishment for driving at an excessive speed. In this clause, we are providing punishment for driving recklessly or dangerously. As I read both the clauses, I see that the terms of clause 114 include the terms of clause 115, because driving recklessly or dangerously must mean driving at a speed more than that prescribed under Schedule Eight.

**An Honourable Member** : No.

**Maulvi Abdur Rasheed Chaudhury** : Others may understand it in another light, but, subject to correction, I take it that driving at an excessive speed includes driving recklessly and dangerously.

**Dr. P. N. Banerjea** : Is it not a grave offence,—driving recklessly or dangerously ?

**Maulvi Abdur Rasheed Chaudhury** : Then, by providing punishment for anything and everything in connection with a motor car, we are doing a great disservice to the youth of this country. Everywhere, races, competition, etc., are encouraged by the State. Everywhere, courageous actions, chivalry and like things are encouraged by the State. By making a stringent provision like this, we are going to decry young men who are courageous in motor driving. If you are going to punish every trifle, then I do not see how people can drive motor. All the time he will be thinking as to violating this provision or that provision. By this clause you are doing a great disservice to the future youth of the country. I, therefore, think that this clause is quite unnecessary.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 115 of the Bill be omitted.”

The motion was negatived.

**Pandit Lakshmi Kanta Maitra** : Sir, I move :

“ That in clause 115 of the Bill, for all the words, occurring after the word ‘ punishable ’, the words ‘ with a fine which may be extend to one hundred rupees ’ be substituted.”

The punishment provided under this clause seems to be too severe. Whether a man is driving dangerously or recklessly is ultimately a matter of opinion. There cannot be any criteria by which it can be judged with any amount of precision. In the circumstances a punishment of Rs. 100 is enough. Sir, I move.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved.

“ That in clause 115 of the Bill, for all the words, occurring after the word ‘ punishable ’, the words ‘ with a fine which may be extend to one hundred rupees ’ be substituted.”

**Mr. K. G. Mitchell :** I oppose the amendment. I would only remind the House that India has a very unenviable record in the number of deaths caused by accidents in relation to the number of motor vehicles. This is very largely due to reckless driving and the only way of preventing these accidents is to severely punish dangerous and reckless driving.

**Mr. President (The Honourable Sir Abdur Rahim) :** The question is :

“ That in clause 115 of the Bill, for all the words, occurring after the word ‘ punishable ’, the words ‘ with a fine which may be extend to one hundred rupees ’ be substituted.”

The motion was negatived.

**Maulvi Abdur Rasheed Chaudhury :** Sir, I move :

“ That in clause 115 of the Bill, the words ‘ on a first conviction ’ be omitted.”

In the case of motor offences, it is not always the driver who is responsible for the offence. Every driver has got a certain responsibility. There are occasions when, to avoid a more serious accident, he does something which turns out to be an accident of a less serious kind. For example, a driver is driving his car on a road. In order to save the life of a man, who is crossing the road, he may run into a goat. All those who have knowledge of motor driving will agree with me that accidents of this type cannot be avoided. I like that the punishment for offences under this section should be the same whether it is the first offence or second offence or third offence. I remember the late Lord Curzon was in the habit of reckless driving. He was convicted several times. On each occasion he was fined something like £10, never more. There should be no difference in punishment for the first offence and subsequent offences. Sir, I move.

**Mr. President (The Honourable Sir Abdur Rahim) :** The question is :

“ That in clause 115 of the Bill, the words ‘ on a first conviction ’ be omitted.”

The motion was negatived.

**Maulvi Abdur Rasheed Chaudhury :** Sir, I wish to move my amendment No. 717.....

**The Honourable Mr. A. G. Clow :** Surely this is barred? This is connected with amendment No. 711 which has been defeated. The two are connected.

**Mr. President (The Honourable Sir Abdur Rahim) :** This is barred. The question is :

“ That clause 115 stand part of the Bill.”

The motion was adopted.

Clause 115 was added to the Bill.

Clauses 116, 117, 118 and 119 were added to the Bill.

**Mr. President (The Honourable Sir Abdur Rahim) :** The question

is :  
“ That clause 120 stand part of the Bill.”

**Maulvi Abdur Rasheed Chaudhury** : Sir, I move :

“ That in clause 120 of the Bill, after the word ‘ who ’, occurring in the first line, the word ‘ knowingly ’ be inserted.”

**The Honourable Mr. A. G. Clow** : Sir, the words “ knows of ” are there already.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 120 of the Bill, after the word ‘ who ’, occurring in the first line, the word ‘ knowingly ’ be inserted.”

The motion was negatived.

**The Honourable Sir Manmatha Nath Mukerji** : Sir, I move :

“ That in clause 120 of the Bill, for all the words occurring after the words ‘ which may extend to ’, occurring in the eighth line, the words ‘ five hundred rupees ’ be substituted.”

The object of the amendment is to increase the ordinary punishment, namely, a fine of Rs. 250 to Rs. 500 and to delete the provision relating to the enhanced punishment which will depend upon the consequences which will ensue. The real difficulty in this case with regard to the provisions as regards enhanced punishment is this. There are certain enactments under which the enhanced penalty provided for the offence depends upon the consequences which follow from the offence itself ; and in all such cases, when examined, it will be found that either the offender knew that such consequences would follow or had sufficient reason to believe, from the circumstances, that those would be the consequences. Well, my submission is this that ordinarily it will not be possible, in a case which is intended to be brought within the provision relating to enhanced punishment, to establish knowledge or belief on the part of the offender and therefore we propose that the latter part may be deleted and that the maximum may be increased from Rs. 250 to Rs. 500.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 120 of the Bill, for all the words occurring after the words ‘ which may extend to ’, occurring in the eighth line, the words ‘ five hundred rupees ’ be substituted.”

**Mr. Abdul Qaiyum** (North-West Frontier Province : General) : Sir, the clause as it stands is good enough. There should be some difference for the two types of offences—where some consequence ensues, and where no consequence ensues ; and I think the amendment is not an improvement on the original clause. Sir, I oppose.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 120 of the Bill, for all the words occurring after the words ‘ which may extend to ’, occurring in the eighth line, the words ‘ five hundred rupees ’ be substituted.”

The motion was negatived.

**Pandit Lakshmi Kanta Maitra** : Sir, I move :

“ That in clause 120 of the Bill, the words ‘ two hundred and ’, occurring in the eighth line, be omitted.”

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 120 of the Bill, the words ‘ two hundred and ’, occurring in the eighth line, be omitted.”

The motion was negatived.

**Maulvi Abdur Rasheed Chaudhury** (Assam : Muhammadan) : Sir, I move :

“ That in clause 120 of the Bill, all the words occurring after the words ‘ two hundred and fifty rupees ’ be omitted.”

**Mr. S. Satyamurti** : Sir, on a point of order—this amendment is barred by the voting on amendment No. 740.

**The Honourable Mr. A. G. Clow** : It is not barred.

**Mr. Bhulabhai J. Desai** : I submit, rejection bars it ?

**The Honourable Mr. A. G. Clow** : The effect of the first amendment would have been a uniform penalty of Rs. 250, the effect of this amendment would be a uniform penalty of Rs. 250 rising to (?). I do not see how the first one bars this.

**Maulvi Abdur Rasheed Chaudhury** : A look at this clause will show that we are providing for punishment for using vehicles in an unsafe condition. We are providing punishment where such a vehicle is used when it is in an unsafe condition, and we are providing here for punishment if in the course of the use of this vehicle an accident occurs. Sir, I think whether there is an accident or not, the punishment should be the same. If anybody drives a car which is in an unsafe condition, he should be punished whether that driving causes any accident or not. Sir, I move.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 120 of the Bill, all the words occurring after the words ‘ two hundred and fifty rupees ’ be omitted.”

**The Honourable Mr. A. G. Clow** : Sir, the Honourable Member has abstained from moving a good many amendments and he has selected a better one this time. I am in favour of his amendment.

**Mr. S. Satyamurti** : Sir, I must say that on this Bill, I have been taken by a series of surprises by the attitude of the Government. The Government do not seem to have a mind about this Bill at all. They want the Bill to go through somehow or other, and, if they can purchase peace at any price with any Group, they are willing to pay that price. I submit, Sir, that that is not the way to pilot a Bill of this nature. Government must have a mind, they must be consistent, and must carry out that mind, and they must not be thinking always of how to pilot this Bill through this House, somehow or other. I at least thought that Government had some mind, but I find

**The Honourable Mr. A. G. Clow** : On a point of personal explanation, may I say that, knowing that my Honourable friend opposite was going to oppose it, it could hardly be said that I was anxious to purchase peace at any price. My reason for opposing it is that the whole principle embodied in these words appears to be vicious.

**Mr. S. Satyamurti :** Sir, the Honourable the Law Member and the Honourable the Member for Communications are both Members of the same Government and they speak with one voice, although there are six different mouths there.....

**The Honourable Sir Muhammad Zafrullah Khan :** In the same way as there are so many mouths opposite who speak with one voice.

**Mr. S. Satyamurti :** I am not distinguishing between the Honourable the Law Member and the Honourable the Communications Member, but so far as the cheap gibe of the Commerce Member is concerned, he will see that all our voices will speak together as they have always done, at the time of voting. But this clause, as it is drafted by the Select Committee, made a well-known distinction which all lovers of human life and limb must accept. What is this clause? I will read it out. It says :

“ Any person who drives or causes or allows to be driven in any public place a motor vehicle or trailer while the vehicle or trailer has any defect, which such person knows of or could have discovered by the exercise of ordinary care and which is calculated to render the driving of the vehicle a source of danger to persons and vehicles using such place, shall be punishable with fine which may extend to two hundred and fifty rupees.....”

That is a complete thing by itself. That is to say, if a man uses a defective vehicle knowing that it is defective commits an offence by itself and the clause provides for a maximum punishment of a fine of Rs. 250. The words which follow are :

“ or, if as a result of such defect an accident is caused causing bodily injury or damage to property, with fine which may extend to five hundred rupees.”

Surely, it ought to be patent to every Honourable Member of this House that an offence is merely technical when it does not result in any danger to anybody or any property. Therefore, the first category of the offence is merely a technical one, i.e., of driving a defective vehicle knowing that it is defective, and for that you provide a lesser punishment of Rs. 250. Secondly, if, as a result of that use of a defective vehicle, an accident is caused causing bodily injury or damage to property, then he is punished with a fine which may extend to Rs. 500. That is a well-known category of differences between offence and offence. Surely, an offence is only technical when the man merely drives a defective vehicle, but it becomes more serious when, as a result of driving that defective vehicle, he causes damage to life and property. The Honourable the Law Member moved an amendment raising the maximum to Rs. 500 in which there was some sense, the sense being that the convicting magistrate will take all the circumstances into consideration and levy a fine from Rs. 250 to Rs. 500 according to the nature of the results of the driving of a defective vehicle. If the result of the driving was serious damage to life and property, he may sentence him to the maximum fine. If there was no such damage at all, he may let him off with a smaller fine of say Rs. 250. I take it that I am right in saying that the original Bill contemplated a punishment of a fine of Rs. 250 or Rs. 500.

**Mr. F. E. James (Madras : European) :** Rs. 500.

**Mr. S. Satyamurti :** Therefore, the Bill, as it was introduced by the Government originally, provided for a maximum punishment of Rs. 500 for all these offences, whether they were technical or they actually

[Mr. S. Satyamurti.]

resulted in loss to life or property. The Select Committee very wisely made a distinction between merely technical offences and offences which cause loss of life or danger to property, and after having done that, the Government thought that they might make the punishment, Rs. 500 fine, uniform and leave it to the magistrate. When the House rejected that amendment, naturally it accepted the distinction put forward in the Bill. Now, the amendment seeks to practically wipe out the distinction altogether and make the maximum punishment the same, whatever the effect of the driving may or may not be. Now, if the object of this Bill is really to promote careful driving and to protect human life and property, then I would still suggest to the Government not to be in favour of this amendment.

**Maulana Zafar Ali Khan :** We also oppose this amendment.

**Mr. S. Satyamurti :** I am very glad to hear from my Honourable friend, Maulana Zafar Ali Khan, that they are also opposing the amendment.

**Babu Baijnath Bajoria :** He is speaking about himself.

**Mr. S. Satyamurti :** I assume all Parties in the House are united, unless it is only a party consisting of Mr. Bajoria only when he can act alone. I assume that in this House the parties work as a team and vote as a team. My own feeling very clearly is this—that it is a dangerous amendment and if accepted will make the comparatively innocent liable to the same punishment as the really guilty. Supposing, a man by some mistake did not find out the defect and yet drove and came back home and caused no loss or damage to life or property, he will be exactly in the same position as a man using a dangerous vehicle and causing damage to life and property wherever he went. A moment's reflection ought to convince the Government that this amendment is wrong unless they feel that, because the Select Committee has made this change, against them, they ought to wipe it out. But that ought not to be their attitude. I want to tell the House this—that we on these Benches, in spite of grave misunderstanding on the other side, are standing by the Select Committee, because we believe that, on the whole, they have produced a good Bill. I do not want the Government to spoil the right distinction made in this good amendment of the Bill made by the Select Committee and I, therefore, hope the House will reject the amendment.

**Mr. President (The Honourable Sir Abdur Rahim) :** The question is :

“That in clause 120 of the Bill, all the words occurring after the words ‘two hundred and fifty rupees’ be omitted.”

The motion was negatived.

**Mr. President (The Honourable Sir Abdur Rahim) :** The question is :

“That clause 120 stand part of the Bill.”

The motion was adopted.

Clause 120 was added to the Bill.

Clause 121 was added to the Bill.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 122 stand part of the Bill.”

**Pandit Lakshmi Kanta Maitra** : Sir, I beg to move :

“ That in sub-clause (1) of clause 122 of the Bill, for the words ‘ five hundred ’ the words ‘ one hundred ’ be substituted.”

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in sub-clause (1) of clause 122 of the Bill, for the words ‘ five hundred ’ the words ‘ one hundred ’ be substituted.”

The motion was negatived.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 122 stand part of the Bill.”

The motion was adopted.

Clause 122 was added to the Bill.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 123 stand part of the Bill.”

**Pandit Lakshmi Kanta Maitra** : Sir, I beg to move :

“ That in clause 123 of the Bill, the words ‘ or causes or allows a motor vehicle to be driven ’ be omitted.”

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 123 of the Bill, the words ‘ or causes or allows a motor vehicle to be driven ’ be omitted.”

The motion was negatived.

**Pandit Lakshmi Kanta Maitra** : Sir, I beg to move :

“ That in clause 123 of the Bill, for all the words occurring after the word ‘ punishable ’ the words ‘ with fine which may extend to two hundred rupees ’ be substituted.”

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 123 of the Bill, for all the words occurring after the word ‘ punishable ’ the words ‘ with fine which may extend to two hundred rupees ’ be substituted.”

The motion was negatived.

**Mr. Abdul Qaiyum** : Sir, I beg to move :

“ That in clause 123 of the Bill, for the words ‘ two hundred ’ the word ‘ fifty ’ be substituted.”

Sir, this clause reads thus :

“ Whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the provisions of section 72,”



[Mr. Abdul Qaiyum.]

Now, section 72 deals with 'Limits of weight and limitations on use'. The clause further reads :

"or of the conditions of any permit issued thereunder, or in contravention of any prohibition or restriction imposed under section 74,"

Section 74 deals with power to restrict the use of vehicles, namely, that a vehicle need not be driven on a certain road or a certain bridge the condition of which is not very safe. The clause further states :

"shall be punishable for a first offence with fine which may extend to two hundred rupees."

Now, Sir, I beg to submit that the clause deals with a type of offence which is not of a very serious nature and in my view the sum of Rs. 200 leans on the side of excess. I think a sum of Rs. 50 would be a more proper sum.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

"That in clause 123 of the Bill, for the words 'two hundred' the word 'fifty' be substituted."

**The Honourable Mr. A. G. Clow** : Sir, I was informed just a few moments ago that the party opposite wanted to stick to the clauses as they were reported by the Select Committee. But they seem to depart from it when it suits them. The Select Committee has approved this one. I am prepared to concede that the penalty is somewhat high, but I would prefer to support the amendment of my Honourable friend, Mr. Amarendra Nath Chattopadhyaya, which is the one immediately after this.

**Mr. Abdul Qaiyum** : Sir, I beg leave of the House to withdraw the amendment.

The amendment was, by leave of the Assembly, withdrawn.

**Mr. Amarendra Nath Chattopadhyaya** : Sir, I beg to move :

"That in clause 123 of the Bill, for the words 'two hundred' the words 'one hundred' be substituted."

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

"That in clause 123 of the Bill, for the words 'two hundred' the words 'one hundred' be substituted."

The motion was adopted.

**Dr. P. N. Banerjee** : Sir, I beg to move :

"That in clause 123 of the Bill, for the words 'one thousand' the words 'five hundred' be substituted."

Sir, I think one thousand rupees is very excessive. I hope my amendment will be accepted.

**The Honourable Mr. A. G. Clow** : Sir, I accept the amendment.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 123 of the Bill, for the words ‘ one thousand ’ the words ‘ five hundred ’ be substituted.”

The motion was adopted.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 123, as amended, stand part of the Bill.”

The motion was adopted.

Clause 123, as amended, was added to the Bill.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 124 stand part of the Bill.”

**Pandit Lakshmi Kanta Maitra** : Sir I move :

“ That in clause 124 of the Bill, for all the words occurring after the words ‘ punishable with ’ the words ‘ fine which may extend to one hundred rupees ’ be substituted.”

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 124 of the Bill, for all the words occurring after the words ‘ punishable with ’ the words ‘ fine which may extend to one hundred rupees ’ be substituted.”

The motion was negatived.

Clause 124 was added to the Bill.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 125 stand part of the Bill.”

**Maulvi Abdur Rasheed Chaudhury** : Sir, I move :

“ That for the proviso to clause 125 of the Bill, the following be substituted :

‘ Provided that if a son or a near relation of the owner living with him drives a car to learn driving, without the knowledge of the owner, the Court shall not take cognizance of the offence ’.”

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That for the proviso to clause 125 of the Bill, the following be substituted :

‘ Provided that if a son or a near relation of the owner living with him drives a car to learn driving, without the knowledge of the owner, the Court shall not take cognizance of the offence ’.”

The motion was negatived.

Clause 125 was added to the Bill.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 126 stand part of the Bill.”

**Dr. Sir Zaidin Ahmad** : Sir, I move :

“ That in clause 126 of the Bill, for the words ‘ one hundred ’ the word ‘ twenty-five ’ be substituted.”

[Dr. Sir Ziauddin Ahmad.]

The offence in this clause is really a very minor offence, and I think it is desirable that the punishment should be reduced to the figure I have suggested.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

" That in clause 126 of the Bill, for the words ' one hundred ' the word ' twenty-five ' be substituted."

**The Honourable Mr. A. G. Clow** : Sir, this may have very serious results and I do not think the penalty is excessive.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

" That in clause 126 of the Bill, for the words ' one hundred ' the word ' twenty-five ' be substituted."

The motion was negatived.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

" That clause 126 stand part of the Bill."

The motion was adopted.

Clause 126 was added to the Bill.

**Maulvi Abdur Rasheed Chaudhury** : Sir, I move :

" That after clause 126 of the Bill, the following new clause be inserted :

' 126A. Whoever crosses or moves or keeps a cattle without a keeper on the road in such a manner as to cause or likely to cause an accident by or injury to a moving motor vehicle or to a passenger of the vehicle or to any person including himself or damage to any property shall be punished with imprisonment not exceeding one month or a fine not exceeding twenty-five rupees or both :

Provided that cognizance will only be taken under this section when the complainant is the driver or the owner of such motor vehicle '."

The meaning of my amendment is clear. Sir, I move.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

" That after clause 126 of the Bill, the following new clause be inserted :

' 126A. Whoever crosses or moves or keeps a cattle without a keeper on the road in such a manner as to cause or likely to cause an accident by or injury to a moving motor vehicle or to a passenger of the vehicle or to any person including himself or damage to any property shall be punished with imprisonment not exceeding one month or a fine not exceeding twenty-five rupees or both :

Provided that cognizance will only be taken under this section when the complainant is the driver or the owner of such motor vehicle '."

The motion was negatived.

Clause 127 was added to the Bill.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

" That clause 128 stand part of the Bill."

**Maulvi Abdur Rasheed Chaudhury :** Sir, I move :

“ That in sub-clause (1) of clause 128 of the Bill, after the words ‘ police officer ’ the words ‘ not below the rank of a sub-inspector ’ be inserted.”

It is generally the case that these drivers are very much harassed by the constables on the way, and it is only for that purpose that I have put it down that the officer must not be below the rank of sub-inspector. It is a simple amendment which I move.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in sub-clause (1) of clause 128 of the Bill, after the words ‘ police officer ’ the words ‘ not below the rank of a sub-inspector ’ be inserted.”

**The Honourable Mr. A. G. Clow :** Sir, this will produce the extraordinary result that a false identification mark or document can be produced before a constable, but before the sub-inspector you will have to produce the real one. I oppose the amendment.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is .

“ That in sub-clause (1) of clause 128 of the Bill, after the words ‘ police officer ’ the words ‘ not below the rank of a sub-inspector ’ be inserted.”

The motion was negatived.

**Mr. K. G. Mitchell :** Sir, I move :

“ That in sub-clause (3) of clause 128 of the Bill, after the word ‘ licence ’, occurring in the second line, the word ‘ a ’ be inserted.”

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in sub-clause (3) of clause 128 of the Bill, after the word ‘ licence ’, occurring in the second line, the word ‘ a ’ be inserted.”

The motion was adopted.

**Mr. K. G. Mitchell :** Sir, I move :

“ That in sub-clause (3) of clause 128 of the Bill, after the words ‘ to drive ’ the words ‘ for a period not exceeding fourteen days from the date of such acknowledgment ’ be inserted.”

Sir, this amendment and the two that follow are intended to correct a defect in sub-clause (3) under which a man who received a temporary acknowledgment but did not appear before the court could go on driving indefinitely. Sir, I move.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved

“ That in sub-clause (3) of clause 128 of the Bill, after the words ‘ to drive ’ the words ‘ for a period not exceeding fourteen days from the date of such acknowledgment ’ be inserted.”

**Mr. K. Santhanam :** Sir, this amendment will have the curious result, that if the police officer does not return it within fourteen days the other man will not be able to drive, and the mistake of the police will be visited on the driver. I do not think this is exactly what the Government intends.

**Mr. K. G. Mitchell :** No, Sir. If a man was not absconding and there was good reason why the court could not deal with his case, the police could give another one for another fourteen days.

**Dr. Sir Ziauddin Ahmad :** Sir, I think the period of fourteen days is rather too short. A driver may go, for example, to some marriage ceremony or the like and he may unavoidably be absent for a longer period. So, I think fourteen days is too small a period.

**Mr. President (The Honourable Sir Abdur Rahim) :** The question is :

“ That in sub-clause (3) of clause 128 of the Bill, after the words ‘ to drive ’ the words ‘ for a period not exceeding fourteen days from the date of such acknowledgment ’ be inserted.”

The motion was negatived.

**Mr. President (The Honourable Sir Abdur Rahim) :** The question is :

“ That clause 128, as amended, stand part of the Bill.”

The motion was adopted.

Clause 128, as amended, was added to the Bill.

**Mr. President (The Honourable Sir Abdur Rahim) :** The question is :

“ That clause 129 stand part of the Bill.”

**Maulvi Abdur Rasheed Chaudhury :** Sir, I move :

“ That in part (b) of sub-clause (1) of clause 129 of the Bill, the words ‘ by registered letter ’ be omitted.”

The retention of these words means an inconvenience. Suppose a driver wants to make an admission or plead guilty on the very day the case is fixed for hearing. If he has to send a letter by registered post the court will not get that on that day. So I do not like to restrict it to registered letter. It can be sent by bearer or he can tell the court himself that he is guilty. I therefore want these words to be omitted. Sir, I move.

**Mr. President (The Honourable Sir Abdur Rahim) :** Amendment moved :

“ That in part (b) of sub-clause (1) of clause 129 of the Bill, the words ‘ by registered letter ’ be omitted.”

**The Honourable Mr. A. G. Glow :** Sir, sub-clause (a) enables a man to appear in person if he thinks a registered letter is going to be delayed.

**Mr. President (The Honourable Sir Abdur Rahim) :** The question is :

“ That in part (b) of sub-clause (1) of clause 129 of the Bill, the words ‘ by registered letter ’ be omitted.”

The motion was negatived.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 129 stand part of the Bill.”

The motion was adopted.

Clause 129 was added to the Bill.

Clause 130 was added to the Bill.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 131 stand part of the Bill.”

**Maulvi Abdur Rasheed Chaudhury** : Sir, I move :

“ That in clause 131 of the Bill, for the word ‘ second ’ the word ‘ first ’ be substituted.”

The intention behind this amendment is that no magistrate, who is not a first class magistrate, should try offences under this Act. 5 P.M. The second and third class magistrates, in the exuberance of their youth, sometimes award severe punishment for which they repent afterwards. So, since the first class magistrates, owing to their experience, have some sobering influence, they should alone try such offences.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That in clause 131 of the Bill, for the word ‘ second ’ the word ‘ first ’ be substituted.”

The motion was negatived.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 131 stand part of the Bill.”

The motion was adopted.

Clause 131 was added to the Bill.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

“ That clause 132 stand part of the Bill.”

**The Honourable Sir Manmatha Nath Mukerji** : Sir, I move :

“ That clause 132 of the Bill be omitted.”

Sir, I am encouraged to make this motion, because I find that my friend, Mr. Satyamurti, also wants this amendment to be made. This clause was not in the Bill as it was originally drafted. It came into the Bill at the Select Committee stage, and the consequences, if this clause is retained, will be very anomalous. It has been provided by the previous clause that all offences under the Motor Vehicles Act are to be tried either by a Presidency Magistrate or by a Magistrate with powers not less than those of a second class Magistrate. This clause 132, by making provision for appeal, in cases tried under the Motor Vehicles Act, has departed from the ordinary procedure and the ordinary rules regarding appeals laid down in the Code of Criminal Procedure. So far as the second class magistrates are concerned, under the Code of Criminal Procedure, any sentence passed by them...

**An Honourable Member :** One rupee only.

**The Honourable Sir Manmatha Nath Mukerji :** . . . . is appealable to the District Magistrate. This clause says that unless the fine exceeds Rs. 25, there will be no appeal. Therefore, the clause curtails the right of appeal in those cases. On the other hand, as regards trials held by Presidency Magistrates, although under the Code of Criminal Procedure any sentence of fine not exceeding Rs. 200 is not appealable, this clause provides that a fine of Rs. 25 imposed by a Presidency Magistrate will be appealable. The consequences of this anomaly would be very serious, and I would ask the House to accept this amendment, specially for the reason that if appeals are allowed for sentences of Rs. 25 passed by Presidency Magistrates, those appeals will lie to the High Court, and, therefore, there will be a very large influx of appeals in the High Court. The other anomalies to which I have referred will also follow. I submit, Sir, this clause should be deleted, and it should be left to the courts to deal with cases and to deal with appeals in consonance with the procedure laid down in the Code of Criminal Procedure. I submit that offences under the Motor Vehicles Act are not more serious than most of the offences under the Penal Code which have been left to be regulated by the procedure prescribed by the Code of Criminal Procedure. I, therefore, appeal to the House to accept this amendment.

**Mr. President (The Honourable Sir Abdur Rahim) :** Amendment moved :

“ That clause 132 of the Bill be omitted.”

**Mr. Bhulabhai J. Desai :** Sir, the ground on which I object to this amendment is very simple. It is not so much on the ground that in the Criminal Procedure Code that applies to offences under the Indian Penal Code the appealable limits are higher. We have created a special code of offences, and we have also created varying degrees of fines. It has also got to be remembered that disqualifications arise out of any conviction by reason of the offences irrespective of the question as to what is the amount of fine. Under those circumstances, it is very wise to allow appeals where, otherwise, under the Criminal Procedure Code, they are not allowed.

**Mr. M. S. Aney (Berar : Non-Muhammadan) :** Sir, I have one more observation to make. When we have provided for elaborate penal provisions in this Code, nowhere have we made any reference to the Criminal Procedure Code in this Bill. I do not know whether the provisions for appeal provided for in the Code of Criminal Procedure will be taken as to really govern cases under this Code at all . . . . .

**The Honourable Sir Manmatha Nath Mukerji :** Yes, Criminal Procedure Code will govern.

**Mr. M. S. Aney :** I think, Sir, instead of leaving the matter to depend entirely on the opinion of a very eminent lawyer like the Honourable the Law Member, I think it would be better that if we take out this clause and we substitute some other provision in order to keep the matter beyond doubt. Either we must leave this matter for consideration till tomorrow, or if it be pressed to vote just now, in spite of ourselves, we shall have to vote against the amendment as it stands as present. I therefore propose that discussion of this amendment should be postponed till tomorrow.

The Assembly then adjourned till Eleven of the Clock on Friday, the 16th September, 1938.

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